HOUSE OF REPRESENTATIVES—*Thursday, March 25, 1993*

The House met at 10 a.m.

Father Joe Metzger, St. Andrew's Catholic Church, Roanoke, VA, offered the following prayer:

Let us pray, almighty and loving God, You guide and govern everything with order and love. Look upon the Members of Congress and fill them with the spirit of Your wisdom. Grant them right faith, firm hope, perfect charity, and profound humility. May they always act in accordance with Your will and may their decisions secure justice and equality for every human being at all stages of life, an end to all division, and a human society built on love and peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BURTON of Indiana. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 236, nays 149, not voting 45, as follows:

[Roll No. 100]

YEAS—236

Abercrombie	Boucher	Cooper
Ackerman	Brewster	Coppersmith
Andrews (ME)	Brooks	Costello
Andrews (TX)	Browder	Cramer
Applegate	Brown (CA)	Danner
Archer	Brown (FL)	Darden
Bacchus (FL)	Brown (OH)	de la Garza
Baesler	Bryant	Deal
Barcia	Byrne	DeFazio
Barlow	Cantwell	DeLauro
Barrett (WI)	Cardin	Dellums
Bateman	Clayton	Derrick
Becerra	Clement	Deutsch
Beilenson	Clinger	Dicks
Berman	Clyburn	Dooley
Bevill	Coleman	Durbin
Bilbray	Collins (IL)	Edwards (CA)
Blackwell	Collins (MI)	Edwards (TX)
Bonior	Combest	Engel
Borski	Condit	English (AZ)
English (OK)	Lancaster	Reed
Eshoo	Lantos	Reynolds
Evans	LaRocco	Richardson
Fazio	Laughlin	Roemer
Fields (LA)	Lehman	Rose
Filner	Levin	Rostenkowski
Fingerhut	Lewis (GA)	Rowland
Fish	Lipinski	Roybal-Allard
Flake	Lloyd	Sabo
Foglietta	Long	Sangmeister
Ford (MI)	Lowey	Sarpalius
Frank (MA)	Mann	Sawyer
Frost	Margolies-Mezvinsky	Schenk
Furse	Markey	Schroeder
Gejdenson	Martinez	Schumer
Gephardt	Matsui	Scott
Geren	Mazzoli	Shepherd
Gibbons	McCloskey	Sisisky
Gillmor	McDermott	Skaggs
Gilman	McHale	Skelton
Glickman	McInnis	Slattery
Gonzalez	McKinney	Slaughter
Gordon	McNulty	Smith (IA)
Green	Meehan	Spence
Gunderson	Meek	Spratt
Gutierrez	Menendez	Stark
Hall (OH)	Mfume	Stenholm
Hall (TX)	Mineta	Stokes
Hamburg	Mink	Strickland
Hamilton	Moakley	Studds
Harman	Mollohan	Stupak
Hayes	Montgomery	Swett
Hefner	Moran	Synar
Hilliard	Murtha	Tanner
Hinchey	Myers	Tauzin
Hoagland	Nadler	Taylor (MS)
Hochbrueckner	Natcher	Tejeda
Holden	Neal (MA)	Thornton
Hoyer	Neal (NC)	Thurman
Hughes	Oberstar	Torres
Hutto	Ortiz	Torricelli
Hyde	Orton	Towns
Inglis	Owens	Traficant
Johnson (GA)	Pallone	Unsoeld
Johnson (SD)	Parker	Valentine
Johnston	Payne (NJ)	Velázquez
Kanjorski	Payne (VA)	Vento
Kaptur	Penny	Visclosky
Kasich	Peterson (FL)	Washington
Kennedy	Peterson (MN)	Waters
Kennelly	Pickett	Watt
Kildee	Pombo	Waxman
Kleczka	Pomeroy	Wheat
Klein	Porter	Wilson
Klink	Poshard	Wise
Kopetski	Price (NC)	Woolsey
Kreidler	Rahall	Wyden
LaFalce	Ravenel	Wynn
Lambert		Yates

NAYS—149

Allard	Castle	Gingrich
Armey	Coble	Goodlatte
Bachus (AL)	Collins (GA)	Goss
Baker (CA)	Cox	Grams
Baker (LA)	Crapo	Grandy
Ballenger	Cunningham	Greenwood
Barrett (NE)	DeLay	Hancock
Bartlett	Diaz-Balart	Hansen
Bentley	Dickey	Hastert
Bereuter	Duncan	Hefley
Bilirakis	Dunn	Herger
Bliley	Emerson	Hobson
Blute	Everett	Hoekstra
Boehlert	Ewing	Hoke
Boehner	Fawell	Horn
Bonilla	Fields (TX)	Houghton
Bunning	Fowler	Huffington
Burton	Franks (CT)	Hunter
Buyer	Franks (NJ)	Hutchinson
Callahan	Gallegly	Inhofe
Calvert	Gallo	Istook
Camp	Gekas	Jacobs
Canady	Gilchrest	Johnson (CT)
Johnson, Sam	Molinari	Shuster
Kim	Moorhead	Skeen
King	Morella	Smith (MI)
Kingston	Murphy	Smith (NJ)
Klug	Nussle	Smith (OR)
Knollenberg	Oxley	Smith (TX)
Kolbe	Packard	Snowe
Kyl	Paxon	Solomon
Lazio	Petri	Stearns
Leach	Pryce (OH)	Stump
Levy	Quinn	Sundquist
Lewis (CA)	Ramstad	Talent
Lewis (FL)	Regula	Taylor (NC)
Lightfoot	Ridge	Thomas (CA)
Linder	Rogers	Thomas (WY)
Livingston	Rohrabacher	Torkildsen
Machtley	Ros-Lehtinen	Upton
Manzullo	Roth	Vucanovich
McCandless	Roukema	Walker
McCollum	Royce	Walsh
McCrery	Santorum	Weldon
McHugh	Saxton	Wolf
McKeon	Schaefer	Young (AK)
McMillan	Schiff	Young (FL)
Meyers	Sensenbrenner	Zeliff
Mica	Shaw	Zimmer
Miller (FL)	Shays	

NOT VOTING—45

Andrews (NJ)	Goodling	Pastor
Barton	Hastings	Pelosi
Bishop	Henry	Pickle
Carr	Inslee	Quillen
Chapman	Jefferson	Rangel
Clay	Johnson, E. B.	Roberts
Conyers	Maloney	Rush
Coyne	Manton	Sanders
Crane	McCurdy	Serrano
Dingell	McDade	Sharp
Dixon	Michel	Swift
Doolittle	Miller (CA)	Tucker
Dornan	Minge	Volkmer
Dreier	Obey	Whitten
Ford (TN)	Olver	Williams

☐ 1022

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MFUME). Will the gentleman from California [Mr. LANTOS] please come forward and lead the House in the Pledge of Allegiance.

Mr. LANTOS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

A WELCOME TO FATHER JOE METZGER

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, it is my pleasure today to present to the House the guest chaplain who offered our prayer, Father Joe Metzger, a native of Richmond, attended Roanoke parochial

schools and Roanoke High School, Roanoke Catholic, graduated from Hampden-Sydney College, was an intern for me.

As soon as he graduated, he went off to Texas to be the financial chairman for the first campaign of the gentleman from Texas [Mr. ARMEY].

Following that, he entered study for the priesthood for the Diocese of Richmond. He attended the North American Seminary in Rome, where he graduated.

He was ordained in Richmond and has served these past 2 years as associate pastor of St. Andrews Catholic Church in Roanoke, VA, in the district of the gentleman from Virginia [Mr. GOODLATTE], our good friend.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I would just like to take a moment and add my welcome to Father Joe. When he worked for me in 1984, I called him son. Now I call him Father. I am confused about that.

The Democrats, of course, would probably enjoy the fact that after Joe helped me get elected, he was then consigned to the priesthood to review his studies and to cleanse his soul, which was a little better outcome than my second finance director, who is still in prison.

I want to thank Joe for being here today.

AN OUTRAGE IN FORT WORTH, TX

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, 2 days ago, an outrage occurred in State District Court in Fort Worth, TX. Christopher William Brosky, an admitted white supremacist and skinhead was brought to trial for the racially motivated murder of an Arlington, TX, black man.

While he was found guilty, an all-white jury gave him 10 years probation.

This is a murder case, and he will not spend 1 day in jail.

I have contacted the Attorney General of the United States, Janet Reno, to ask for an investigation by the Justice Department to determine if any Federal civil rights laws were violated.

The 10-year probated sentence is an outrage. It is my hope that Federal civil rights charges can be brought against this man in Federal District Court. I believe that an investigation by the Justice Department is imperative at this time.

This is not the 1950's. This is 1993, and this conduct cannot be permitted.

FATHER JOE METZGER

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, I rise today to welcome a dedicated servant of my hometown, Father Joe Metzger. As a priest at St. Andrews Church in Roanoke, VA, Father Metzger serves both the Lord and his parishioners with humility, integrity, and a loving spirit. We are indeed fortunate to have him in our community.

However, it is his work with the young people that I wish to especially commend. Father Metzger consistently goes above and beyond the call to take the love of Christ to young people in Roanoke Valley. He sets a great example for them and is unfailingly upbeat and positive.

PRESIDENT CLINTON'S INVESTMENT PACKAGE

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, the recession is not over for people on the unemployment line. That is why it is vital for working Americans that President Clinton's investment package be passed by Congress as soon as possible.

President Clinton understands that job creation is the true measure of a strong economy and a strong nation.

My northwest Indiana district has already lost more than 38,000 jobs since 1979. Inland Steel will terminate another 100 workers this month. Food stamp utilization in my district has jumped by 20 percent since 1991.

We cannot wait. President Clinton's economic package will create 500,000 jobs immediately and 8 million jobs by 1996. It addresses infrastructure, education, and research and development, all of which have been ignored for the last 12 years.

The President's plan will keep the economy moving, create jobs for working Americans and cut the deficit.

Mr. Speaker, President Clinton was elected to change the direction of our country. We need to put his plan into action and put America back to work.

WAR CRIMES TRIBUNAL FOR SADDAM HUSSEIN

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, 2 years ago, I introduced a House resolution calling upon the United Nations to establish a war crimes tribunal for Saddam Hussein and his accomplices.

This war crimes resolution, based on the Geneva Convention of 1948, was cosponsored by 98 House Members and passed by a vote of 421 to 1. A similar Senate resolution was adopted on a voice vote.

Mr. Speaker, with the newly released report of Saddam's unspeakable war crimes, it's time for the administration to push for a formal U.N. war crimes tribunal against this brutal dictator.

The recent report documents atrocities that cannot go unpunished: The torture of Kuwaiti people by penetrating body parts with electric drills; acid baths followed by dismemberment; babies taken from incubators and left to die; brutal rapes and 1,082 gruesome murders.

Mr. Speaker, the House and Senate have spoken. Now it's up to the President to enforce the war crimes resolution and lead the international community in holding Saddam Hussein accountable.

A war crimes trial is not only justified, it is necessary to send a message to all future tyrants that well-established principles of international law will be enforced.

□ 1030

URGING QUICK CONGRESSIONAL ACTION ON BUDGET PACKAGE

(Mr. KOPETSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOPETSKI. Mr. Speaker, when President Clinton took office he said that he was going to take quick, decisive action to help America and the American people. That is exactly what he has done in his economic stimulus and investment package.

Yes, this House has passed that. We are investing in roads and bridges. We are investing in people as well, in our students through the Pell Grant Program, through the summer youth employment program, through the summer Head Start Program; for such things as the National Science Foundation, the National Park Service, and the VA medical care program, as well.

I am urging the other body today to take quick action, as we did in the House, to help America, to help American people. We started out this road in the House with having the unemployment benefit program, to extend unemployment benefits to those who are in a crisis situation today. This package that the other body is considering pays for that program, and that is why we must have quick action.

The President's plan is about our immediate future. Far too many Americans remain jobless. Importantly, we must invest in our long-term future as well. The President's plan is an investment in America. I urge the other body to move quickly and decisively.

FAIRNESS IN HOUSE RULES AND CUTTING PORK BARREL PROJECTS

(Mr. BURTON of Indiana asked and was given permission to address the

House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I would just like to say to my Democrat friends who were complaining to me about all the votes that are being cast and ordered in the last few days that it will continue indefinitely, and I hope if they are really concerned about it they will talk to the Committee on Rules, because those votes will end as soon as there is a modicum of fairness. That is all we request on the Republican side is fairness from the Committee on Rules.

Mr. Speaker, I would like to talk just a little bit about President Clinton's economic recovery package. He said in a news conference the other day there was not any pork in there. I would like to say, if the President was paying attention, Mr. Speaker, here are hundreds of pages of pork, hundreds of pages of pork.

Mr. President, if you cannot find them, I will find them for you and I will bring them down to the White House. There are billions of dollars in pork barrel projects.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The Chair would remind the gentleman in the well that all remarks should be directed to the Chair.

Mr. BURTON of Indiana. Mr. Speaker, I agree, and I am saying to the Speaker that if the President were looking, Mr. Speaker, I hope he will take a look at what I am showing to the American people. That is that there are billions of dollars in pork barrel projects, such as movie theaters, swimming pools, parking garages, et cetera, et cetera.

Mr. President, I would say, if he does happen to be paying attention, Mr. Speaker, let me know. Give me a call and I will bring this down to the White House. This is not an economic recovery package, it is a payoff to big city mayors, and I think the people in this country ought to know it.

URGING SENATE APPROVAL OF CLINTON ECONOMIC PACKAGE

(Ms. SCHENK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SCHENK. Mr. Speaker, I would just ask my esteemed colleague from the other side of the aisle, Is pork fully funding Head Start? Is pork fully funding the Women, Infants and Children's Program? I think not.

Mr. Speaker, the House last week approved an economic plan that squarely addresses the two key issues facing us today—creating jobs and reducing the deficit.

Every Member of this body did not agree on the specifics of this plan. I advocated more spending cuts. Some of my colleagues supported additional stimulus measures.

But I am proud that the vast majority of the Members of the U.S. House of Representatives came to agreement on an economic package that promises hope to those in my district and those across the Nation who are without jobs, or barely making ends meet.

I am proud that we agreed on a package that will create half a million jobs over the next 5 years.

I am pleased that we agreed on a package that cuts $63 billion more in spending than the President had proposed.

But the House of Representatives cannot do this alone. It is time for the other body to show this same commitment to breaking the gridlock.

I urge my colleagues in the other body to swiftly pass a budget resolution and an investment plan that creates opportunity and puts our Nation back on the course to economic prosperity.

ENCOURAGING PRESIDENT CLINTON TO SOLICIT ARAB CONTRIBUTIONS TO SUPPORT DEMOCRACY

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, I want to commend the President for the sensitivity and the intelligence with which he is handling the crisis in Russia, which clearly may be one of the most significant issues of his entire administration.

I would like to offer one modest suggestion. Had we not acted 2 years ago in Kuwait and Saudi Arabia, Kuwait today would be the 19th province of Iraq, and Saudi Arabia would be the 20th province of Iraq. I am asking the President to pick up the phone and call the Emir of Kuwait and the King of Saudi Arabia and suggest that each of them contribute $3 billion to a package that is necessary to keep the Soviet Union democratic and friendly to the United States. It is high time our wealthy Arab friends contribute their fair share to our collective defense.

Keeping Yeltsin in office is an important priority for this Nation. Keeping democracy in Russia is one of the most important things we will do during the balance of this century, and Kuwait and Saudi Arabia should contribute.

DEBT CEILING/BALANCED BUDGET AMENDMENT

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, it is business as usual. In a decade alone—from May 1980 through November 1990, this body voted to increase the debt ceiling 32 times. And now, contrary to promises of fiscal responsibility, the administration is asking Congress to temporarily raise the debt ceiling by a quarter of a trillion dollars. And they expect this ceiling to be high enough for only 6 months.

Thirty-two times in 10 years—and 11 of those times it was called "temporary." The term temporary might seem to reduce the gravity of such irresponsibility, but temporary almost always becomes permanent and it's business as usual again.

I urge my colleagues to vote against business as usual. Vote against raising the debt ceiling. Vote for a balanced-budget amendment.

VICTIMS OF HANDGUN VIOLENCE

(Mrs. COLLINS of Illinois, asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, in this Congress we debate, disagree, and delay taking substantive action on gun control legislation, while on the streets of America innocent people are being killed daily. Earlier this month I read the names of 50 individuals who lived in Cook County, IL, but were killed in January of this year by handguns. Today I stand before you to submit the names of 46 people who were killed by guns in Cook County in February 1993.

Names and numbers however cannot express the personal loss and grief that the families of those 46 victims must endure. How can I respond to the family of Eric Black—residents of the Seventh Congressional District—when they ask me why we here in Congress have not passed gun control legislation?

Eric Black was shot to death on February 4, 1993, by two unknown gang members. Outside her house, Mrs. Black saw her son gunned down, along with Francine Epting, her neighbor, and William Howard, who was hit by a stray bullet and died hours later.

Mrs. Black, who lived through the horror of her husband having been killed 12 years ago, now must endure the same senseless pain of the loss of her youngest son. Why? she asks.

Twenty year old Eric Black had the potential of leaving his neighborhood, which is riddled with gangs, drugs, and violence. Last year he graduated from the George W. Collins High School, named after my late husband, and was taking classes at Malcolm X College in order to prepare himself for a brighter future. He leaves two young children who will be reared without the love of their dad.

Mr. Speaker, this Congress has delayed for far too long the passage of gun control legislation. We blindly

69-059 O—97 Vol. 139 (Pt. 5) 14

continue to debate the true meaning of the constitutional right to bear arms, at a time when massive killings of our youth are so commonplace as to become an accepted way of life. Until gun control legislation is passed, more Americans will senselessly die.

Already many people have been injured by fire arms in the Chicago metropolitan area this year, but the following were killed by street guns in Cook County during the month of February 1993.

Franklin Brandon, Ronald Bradberry, Alex Barrajas, Willie Burdine, Eric Black, Antonio Collins, Richard Crayton, Arlesia Davis, Alfred Escalente, Francine Epting, Angel Flores, Job Gonzalez, Cornell Greer.

Jasmine Gomez, Cornelius Harland, William Howard, Lona King, Robert Kettleson, Kenneth Nullen, Donnell Monroe, Curtis Madlock, Eric Mocco, Hector Olague, Charles Pearson, Cheryl Pitelka, Leroy Peck Jr., Kevin Pierce, Clay Randall, Shawn Redmond.

Jeffrey Rodgers, Walter Rule, Daniel Ray, Amer Nafi Said, Reginald Smith, Antoine Taylor, Gerald Thomas, Ramzi Toman, Richard Volk, Rodrigo Vargas, Motez Walton, Booker Whitfield, Ronnie Williams, Rickie Watson, Wayne Wilson, and William Zielke.

The question is: How many more will have to die before this body can muster the courage to pass sound gun control legislation.

□ 1040

LEWIS GRIZZARD—A GREAT AMERICAN

(Mr. COLLINS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. COLLINS of Georgia. Mr. Speaker, I rise to pay tribute to a great American who has warmed the hearts of many of our countrymen from coast to coast. I rise to ask all those within the sound of my voice to honor Lewis Grizzard, a distinguished columnist who this moment is awaiting word on whether he may have to have a heart transplant.

Lewis Grizzard is a native of the Third District of Georgia, but he has become a good neighbor to all Americans through his special brand of humor we find in his nationally syndicated column.

Many of his friends say Lewis has lived life his way, which in medical terms may not have been the right way. But, his way has brought to the eyes of many tears from laughter who now shed tears of sorrow due to his guarded condition. Lewis Grizzard has been an inspiration to many heart patients through his retelling of his own experience with heart valve replacements, this being his third such operation.

Mr. Speaker, I ask that you allow me to implore all those who have laughed when reading one of Lewis' columns to now silently pray that God will grant Lewis more time on this Earth to do that which God intended: make life more enjoyable for his fellow man.

AMERICAN FREE-TRADE AGREEMENT BAD FOR AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the big shots in Washington are telling us not to worry about NAFTA; America will lose some menial jobs to Mexico, but we will replace them here in America with high-technology jobs.

Ladies and gentlemen, who is kidding whom? We have not seen, and we have been waiting on these high-technology jobs for 20 years, and all we get is retraining. What are we retraining American workers to do? Flip hamburgers?

Ladies and gentlemen, we have a big problem. And I go a step further than Ross Perot. I agree with him, but I think NAFTA is unconstitutional to boot.

How can you enjoy life, liberty, and pursue happiness in America without a job?

Before this Congress is over with NAFTA they will be calling Ma Bell Taco Bell.

ELIMINATE THE BUREAUCRACY AT FDA

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, everyone is concerned today about the high cost of medical care, and we are all looking for ways to hold it down.

Actually, costs have skyrocketed mainly due to all the rules, regulations, and redtape of our own Federal Government. There is no better example of this than the bureaucratic quagmire called the Food and Drug Administration.

The American Medical Association estimates that it now takes 12 years and $231 million on average to get a drug to market. This is ridiculous. No wonder drugs cost so much in this Nation. No wonder people can go just across the line into Mexico and buy drugs at a fraction of the cost here.

We all want safe drugs, but you can go overboard on anything. Now the FDA has become so bureaucratic that it is driving the cost of medicine out of reach for many people, and is very possibly keeping lifesaving drugs off the market for years.

There is no such thing as a 100-percent safe drug. Even aspirin is unsafe for many with ulcers.

If we really want to bring down the high cost of medicine, the best way would be to eliminate much of the bureaucracy at the Food and Drug Administration.

INTRODUCTION OF LEGISLATION TO TERMINATE PAY OF FEDERAL JUDGES CONVICTED OF FELONIES

(Mr. SANGMEISTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANGMEISTER. Mr. Speaker, today I am introducing legislation to terminate the pay of federal judges when they are convicted of a felony.

In recent years, a gross abuse of taxpayer dollars has become common. Since 1984, four Federal judges have been convicted of felonies and sentenced to serve time in prison. While their crimes have all been different, they all had one thing in common. They all refused to leave the bench and they continued to accept their pay until impeached and removed by the Senate. Currently, two convicted judges continue to receive $133,600 a year in salary.

That is right, we are paying more than $133,000 a year to a judge currently serving a prison sentence in Florida.

How much taxpayer money has been paid to criminals?

Judge Harry Claiborne—$175,000.

Judge Walter Nixon—$325,000.

Judge Robert Collins—$194,000—and counting.

Judge Robert Aguilar—$322,000—so far.

And this does not include the cost of impeachment proceedings.

My legislation is straightforward. At the time a Federal judge is convicted of a felony, his pay is terminated. If his conviction is later overturned on appeal, his salary is reinstated with back pay. I invite all of my colleagues to join me and cosponsor this legislation to protect the American taxpayers from this outrageous drain on the Treasury.

DEBT CEILING DISASTER

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, ever since the President gave his State of the Union Address, the American people have been awaiting details pertaining to his ambitious economic programs. Well, these details are now starting to trickle out of the White House, and frankly some of them are disastrous.

Contrary to promises of fiscal responsibility, Mr. Clinton's administration is now asking the Congress to temporarily raise the debt ceiling by a quarter of a trillion dollars. Furthermore, they expect this ceiling to be high enough for only 6 months.

Mr. Speaker, this fiscal gluttony has got to stop. If we give in this time, when will it end? I fail to see the incentive here to balance the budget. I fail to see the incentive to pay our bills. A higher debt ceiling can only lead to higher spending and higher taxes. Simply put, this is an extraordinarily irresponsible proposal.

The American people did not send any of us here to increase the debt. They sent all of us here to solve America's economic problems. Mr. Speaker, raising the debt ceiling is not the way to go. I urge my colleagues to reject any and all attempts by the administration and Members of this body to delay fiscal responsibility by raising the debt ceiling.

UNITED STATES CANNOT AFFORD NORTH AMERICAN FREE-TRADE AGREEMENT

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, Buy American has a great, rosy sound. We put it into law. But I can tell you this: If the North American Free-Trade Agreement is signed into law, by the year 2000 we will not have any need for it, because most of the products are not going to be made in this country. We are going to be making our airplanes, our automobiles, and all of our other products in Mexico.

I can tell Members we are losing our jobs now. By the droves they are moving to Mexico; they are moving to Canada; they are moving to China; they are moving to Japan.

What do we have left? We have minimum wage jobs.

I say to those who want to balance the budget: If you want to balance the budget, my friends, we cannot do it by taxing unemployment benefits, by taxing retirement benefits, or by taxing minimum wage salaries.

The United States cannot afford, they cannot afford the North American Free-Trade Agreement. We cannot afford to keep putting more people on welfare, more people in soup lines, and creating more part-time jobs in Wendy's and McDonald's.

They say the economy is good. I am here to tell you that in my district there are 14 percent unemployed. They say the figures of February are 380,000 new jobs. I can tell you that 350,000 of them are part-time and minimum wage.

□ 1050

Mr. Speaker, I say that NAFTA needs to be renegotiated, bring back the jobs that Americans have developed, and made in this country.

HEALTH PROMOTION

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, an American Medical Association study released on February 22 showed that 1 in 4 health care dollars is spent on treating conditions that result from potentially changeable behaviors, including drug abuse, alcohol abuse, smoking, domestic and street violence, and failure to get routine checkups.

Mr. Speaker, Members may be interested to learn that my measure, H.R. 36, the Comprehensive Preventive Health and Promotion Act, will require the Department of Health and Human Services to publish and disseminate information on the benefits of practicing preventive health care, the importance of undergoing periodic health examinations, and the need to establish and maintain a family medical history to businesses, health care providers, and other appropriate groups and individuals.

Additionally, this legislation provides for prevention and health promotion workshops to be established for businesses and for Government. The wellness workshops will include nutrition counseling, smoking cessation programs, back clinics, and information on stress management.

Mr. Speaker, I urge all of my colleagues to examine H.R. 36, and to help move our country in a healthier direction.

PRESIDENT CLINTON KNOWS FOREIGN POLICY

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute.)

Mr. RICHARDSON. Mr. Speaker, President Clinton has shown Presidential leadership in his first foreign-policy test on the Soviet crisis. His good political instincts in the domestic arena are evident in foreign policy also.

By backing Boris Yeltsin early and not sending the wrong signal on changing the summit site, President Clinton and Secretary of State Christopher have contributed to shoring up Yeltsin at a critical time. Mr. Speaker, the President inherited an unstable and unpredictable world when he took office. I think his actions regarding Russia and other international issues show that he is a President who knows foreign policy and can act and protect this country at a time of crisis.

WHERE ARE THOSE WHITE HOUSE BUDGET CUTS?

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, a few weeks ago, columnist David Broder coined a new term that I think describes the Clinton administration better than any partisan critic could. He titled his column about the seemingly endless string of broken campaign promises by the White House, "Beware the Trust Deficit."

Well, President Clinton has dipped into that precious account once again by reneging on his promise to cut Executive staff. Mr. Speaker, we all know that the President promised to reduce the operating budget of the White House by 25 percent. That was announced with great fanfare.

Then, very quietly, he has come to Congress with requests for the following increases in the White House budget: a 36-percent increase in the budget of the Office of Policy Development, a 9-percent increase in the office of the National Security Council, and a 4-percent increase for operations of the Executive Mansion.

You might ask, "Where, then, are the cuts going to come from?"

Some will come from the Office of Drug Control Policy, an effort that President Clinton apparently thinks is not important. The rest, it appears, have just been forgotten.

Forgotten like the middle-class tax cut, forgotten like real spending cuts, forgotten like most of the President's campaign promises.

The President promised to set an example for Congress by cutting his own budget. Let us hold him to his word and reject these increases for White House operations. It is time to take action on the trust deficit.

THE PRESIDENT'S PLAN OFFERS HOPE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, 2 days ago I sat in a room with more than a dozen mayors and community business leaders and discussed the potential for cities, businesses, and workers offered from the President's economic plan. It was a unique moment; these leaders, with varying perspectives, all agreed that the plan presented by the President, and just passed by the House, offered something new. The optimism they shared was not because of any one part of the President's plan, but for the idea of a plan. For the idea of Government finally leading, finally committing itself to a solution.

For 4 years, they had watched gridlock block economic change. What they saw in the results of last week's action in the House was a commitment to the future, to turning the corner on the recession. They shared a sense of hope.

This feeling is evident across the Nation, and it should infuse this Chamber as debate proceeds on the President's economic package. The economic plan

passed in the House and now being considered in the other body offers hope to people who have been laid off, businesses on the verge of collapse, and cities that have sunk into depression.

The plan we accepted last week moves this country in a new direction, and the people know it. We cannot now afford to allow small differences to dash the hope it offers. To do so would extinguish the spark of trust that is beginning to reemerge between this Government and the people it serves.

TABLE THE OFFICE FURNITURE PERK

(Mr. CRAPO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAPO. Mr. Speaker, today I rise to lend my support to a measure that I believe has some personal relevance to the 110 Members of the freshman class. It is about reform that all of my distinguished colleagues can understand. It is about a comparatively small reform issue in actual dollars, but big things often come in small packages.

Mr. Speaker, I think it is fair to say that bipartisan reform is readily achievable if two freshman Members from different political persuasions and as far apart geographically as Michigan to South Carolina can collaborate on reform issues. My colleagues, Mr. STUPAK from Michigan and Mr. INGLIS of South Carolina have worked together in crafting H.R. 1026, a bill to repeal the first section of Public Law 93–462 to limit departing Members' purchases of office furnishings from their district offices at vastly reduced prices.

This bill is not a glamorous piece of legislation, nor will it alone solve our $4 trillion debt problem. But it is one step in bipartisan reform efforts that will eventually lead to greater measures.

Most of us sought office on a platform of reform issues, and nothing hits home harder than to inherit a district office with only one chair or one computer on the premises. One staff member recently referred in Roll Call magazine to "hover[ing] around the one computer and pass[ing] the keyboard around" because that was the only piece of equipment left. This predicament serves neither taxpayer nor constituent. H.R. 1026 is our way of saying that we will not accept business as usual and we will not accept the perk of selling off taxpayer-financed furniture at firesale prices as one last perk to departing Members of Congress.

TRIBUTE TO WILLIAM F. BENGELE FOR UNCOVERING FRAUD AND ABUSE IN MEDICARE

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, $850 billion is spent annually in the United States on health care. Medicare itself pays out $110 billion in medical benefits for services rendered to its 35 million beneficiaries. In fact, Medicare is the single largest payer for health services in the United States.

Unfortunately, there will always be those who capitalize on the ignorance of others and make a buck by creating a scam. The General Accounting Office has uncovered fraudulent billing for services not rendered, profit schemes which circumvent Medicare regulations, and false billing for patients that do not exist.

Health industry experts estimate that fraudulent medical claims and health insurance scams could account for 10 percent of the U.S. health bill or $85 million.

Today, I am pleased to recognize William F. Bengele, who resides in Lorain, OH, in the 13th Congressional District. As an investigator for Blue Cross and Blue Shield of Ohio, Mr. Bengele diligently worked to investigate cases of fraud and abuse in the Medicare Program. As a result of his investigation, $610,000 that could have been spent fraudulently will now be added as savings to Medicare.

Given the enormity of spending on health care in the United States, I think it is safe to say we are all concerned about escalating costs. Mr. Bengele played a significant role in reducing health expenditures, particularly those under Medicare. The Department of Health and Human Services recently recognized him with the Integrity Award—the highest civilian distinction provided by the U.S. Government.

Mr. Speaker, I ask my colleagues to join me as I congratulate Mr. Bengele for his exceptional service and commend him for a job well done.

YOU HAVE A CHOICE

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Texas. Mr. Speaker, I just want to say to the American people: You do have a choice. You have a choice between more taxes and no taxes.

The Democratic budget offers you deficit reduction and more taxes. The Republican budget offers you deficit reduction and no taxes. Republicans cut spending more, so as not to raise taxes.

President Clinton wants you to believe that the only way to reduce the deficit is to raise taxes. He is very clever about this. He does not want you to know you have a choice. You do. You do not have to pay more taxes. You can choose the Republican plan to no new taxes.

Mr. Clinton sounds persuasive. But remember—during the campaign he promised middle-class tax cuts, not tax hikes. Now he proposes more new spending and more new taxes.

Your voice can be heard in the Oval Office and in the Halls of Congress. You do not have to accept more taxes. You can choose no taxes. Let the President and Congress hear that you support the Republican budget. You do have a choice.

□ 1100

TRIBUTE TO CHICAGOAN EMMET O'NEILL

(Mr. RUSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSH. Mr. Speaker, I rise this morning to salute the life-long contributions of the late Emmet O'Neill, who passed last Friday. This distinguished Chicagoan was a major influence on my own political development.

He contributed unselfishly of his time and talent to the public and political lives of hundreds of distinguished men and women from Chicago, including our distinguished Senator from Illinois, CAROL MOSELEY-BRAUN, the late Chicago Mayor Harold Washington, and former Senator Alan Dixon, of Illinois.

Known, lovingly, by many as the good samaritan of Illinois politics, O'Neill was a champion for the rights of women, the poor, the elderly, minorities, the homeless and for people who, generally, are denied the opportunity to participate in the mainstream of our society.

I will miss my friend Emmet O'Neill and I join his family, friends, and the men and women of good will in Chicago in mourning his loss to our city, State, and Nation.

SUPPORT THE BLILEY MOTION

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, just as abortion on demand constitutes an abandonment of unborn baby boys and girls to the violence of the abortionist—and let us not fool ourselves, dismemberment by knife or section of a baby's body and chemical poisoning of that baby is child abuse and abandonment—if this House rejects the gentleman from Virginia, Mr. BLILEY's modest one-parent notification recommittal motion, we will be abandoning tens of thousands of minors not covered by a State parental notifica-

tion law. These young girls, 14, 15, 16 years of age, will be vulnerable to being influenced, encouraged, and even pressured and persuaded to have an abortion without their parents' knowledge.

Parents have both a right and a responsibility to know what adults in the sleazy multi-billion-dollar abortion industry are doing or planning on doing to their minor pregnant daughters.

Let us not abandon these young women; support the Bliley motion.

PRESIDENT'S BUDGET LIVES UP TO COMMITMENT TO VETS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, in testimony before the House Appropriations Committee yesterday, Veterans' Affairs Secretary Jesse Brown laid out the details of President Clinton's fiscal 1994 budget for the VA.

We were pleased to learn that the administration is recommending $1 billion increase in funding for the Nation's veterans' hospitals, clinics, nursing homes, and other medical facilities which have operated with deficient resources for at least the past 10 years. This increase will result in a total $15.6 billion VA medical budget.

This spending plan recognizes that VA deserves a strategic role in the health care direction of this country. The President's budget also recognizes that VA must have sufficient resources to take care of its current obligations and, hopefully, expand to care for others whose health care needs are going unmet.

With this budget proposal, the President is treating veterans fairly. With this budget proposal, he is keeping his commitment to give veterans the kind of health care system their country owes them.

IN HONOR OF THE STATE OF MARYLAND

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, on this date in 1634, after 4 months at sea, the Ark and the Dove landed at St. Clements Island in the Chesapeake Bay, establishing the first permanent settlement in what was to become the State of Maryland as one of the original 13 colonies.

Maryland's history of government, however, is as old as its first settlers. Less than a year after landing at St. Clements, the first General Assembly met at St. Mary's. Fifteen years later, it passed a religious tolerance law, the first in the Colonies.

From the Appalachian mountains in the west, to the Chesapeake Bay and Atlantic Ocean in the east, Maryland is a microcosm of the entire American landscape.

But Maryland is also unique, from lacrosse to duckpin bowling, steamed crabs to Skipjacks. Our national anthem was penned in Maryland, as Francis Scott Key viewed the Stars and Stripes still flying at dawn's early light during the British shelling of Fort McHenry in the War of 1812. And the land on which we now are standing was ceded by the State of Maryland so that we could have an independent seat for our Federal Government.

Mr. Speaker, today is Maryland day, and not only do I proudly stand here both as an American and a Marylander but I am certain you, as a fellow Marylander, do as well.

The SPEAKER pro tempore (Mr. MFUME). The Chair wishes to associate himself with the remarks of the gentlewoman from Maryland [Mrs. BENTLEY].

EMERGENCY PORK?

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, a few days ago, President Clinton said to us that there were no pork programs in his stimulus package. President Clinton told the American people that they could "read those bills for years in vain and not find those projects."

Well, Mr. Speaker, I read those bills and in a few minutes found numerous examples of wasteful spending. Some of the line items include: $1.4 million for drawings of significant structures (page 10, line 10); $28 million to pay off the District of Columbia's debt (page 7, line 18); and $148 million to the IRS for new computers (page 25, line 16).

Mr. Speaker, the billions of dollars of new spending in this plan will be added straight to the deficit. Congress has declared an economic state of emergency to side step the budget caps, but still remains addicted to pork-barrel spending.

Why are we spending $197 million on research grants such as a study of nontraditional forms of popular religion in Sicily? If the Democrats believe we are truly in an economic emergency, you've got to wonder why they choose to spend your hard-earned dollars on projects like these.

NORTH KOREA'S WITHDRAWAL FROM NUCLEAR NONPROLIFERATION TREATY

(Mr. LAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAZIO. Mr. Speaker, I rise to express my concern regarding North Korea's decision to withdraw from the Nuclear Non-Proliferation Treaty. While we are focused on the ethnic conflict in the former Yugoslavia and the situation in Russia, both pale in comparison to the specter of a confrontation on the Korean Peninsula.

It is no secret that the Communist regime in Pyongyang is developing a nuclear capability. According to knowledgeable sources, Pyongyang's decision to withdraw was an insolent response to the demand by the International Atomic Energy Agency to conduct an inspection of two sites in North Korea. These sites, many believe, contain undeclared bomb-making plutonium.

Without an inspection, the world will be faced with a prospect far worse than just a nuclear arms race in Northeast Asia. I believe we will be ill prepared to deal with the result, given our current narrow foreign policy focus.

Our Asian allies have sensed this and they are wondering aloud if we will maintain our regional commitment.

Mr. Speaker, we must do everything in our power to reassure our Asian allies of our resolve against tyrants like Kim IL Sung. We must convince them that nuclear weapons are not the answer, but rather their biggest nightmare. For our part, we must be vigilant and continue to scan the western horizon—Asia is where tomorrow's greater danger lurks.

SEPARATE VOTES ASKED FOR DEBT LIMIT, BALANCED BUDGET AMENDMENT, AND LINE-ITEM VETO

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, the spending natives are growing ever more restless. If you listen carefully, you can hear their drumbeat calling for an almost $225 billion increase in the debt limit. And unfortunately, as we move toward Easter recess, that sound will only increase until it leaves the American people with a pounding headache.

You see, certain lawmakers around this place, have hopes of hiding a debt limit increase in a jungle of budget resolutions and conference reports. They want to raise the ceiling on the debt limit and add some more upstairs rooms to house their pet pork projects.

Mr. Speaker, before we give them license to start construction, we must demand a separate vote on increasing the debt limit and press for a vote on the balanced-budget amendment and line-item veto.

CAN'T FIND THE PORK? HERE IT IS

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, I want to take this time, since we are speaking about the debt limit to pay for pork, I wanted to yield briefly to my friend from Indiana [Mr. BURTON] in order to give us the sticker price on some of these piggies.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, President Clinton said the other day that there was not any pork in his economic stimulus package. How about $450,000 for room additions at the Inglenook Recreation Center in Alabama? How about $100,000 for recreation repairs in another part of the recreation center in Birmingham, AL?

There are billions of dollars of these pork-barrel projects, Mr. Speaker, and the President has said he cannot find them. I do not understand it. The President must need glasses. He is a nice looking fellow, but he ought to put glasses on because here is billions of dollars of pork in the community development block grants with which he is paying off these big-city mayors.

Mr. Speaker, I wish you would bring this to the attention of the President because obviously he cannot find them himself. I would be glad to run these down there in my own car.

Mr. Speaker, with that, I have a privileged motion at the desk.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. HUNTER] has expired.

□ 1110

MOTION TO ADJOURN

Mr. BURTON of Indiana. Mr. Speaker, I offer a privileged motion.

The Clerk read as follows:

Mr. BURTON of Indiana moves that the House do now adjourn.

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion to adjourn offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 13, nays 399, not voting 18, as follows:

[Roll No. 101]

YEAS—13

Baker (CA)	DeLay	Hunter
Ballenger	Doolittle	Livingston
Bartlett	Dunn	Torkildsen
Burton	Franks (CT)	
Crane	Hoke	

NAYS—399

Abercrombie	Emerson	Kleczka
Ackerman	Engel	Klein
Allard	English (AZ)	Klink
Andrews (ME)	Eshoo	Klug
Andrews (NJ)	Evans	Knollenberg
Andrews (TX)	Everett	Kolbe
Applegate	Ewing	Kopetski
Archer	Fawell	Kreidler
Armey	Fazio	Kyl
Bacchus (FL)	Fields (LA)	Lambert
Bachus (AL)	Fields (TX)	Lancaster
Baesler	Filner	Lantos
Baker (LA)	Fingerhut	LaRocco
Barcia	Fish	Laughlin
Barlow	Flake	Lazio
Barrett (NE)	Foglietta	Leach
Barrett (WI)	Ford (MI)	Lehman
Barton	Fowler	Levin
Bateman	Frank (MA)	Levy
Becerra	Franks (NJ)	Lewis (CA)
Beilenson	Frost	Lewis (FL)
Bentley	Furse	Lewis (GA)
Bereuter	Gallegly	Lightfoot
Berman	Gallo	Linder
Bevill	Gejdenson	Lipinski
Bilbray	Gekas	Lloyd
Bilirakis	Gephardt	Long
Bishop	Geren	Lowey
Blackwell	Gibbons	Machtley
Bliley	Gilchrest	Maloney
Blute	Gillmor	Mann
Boehlert	Gilman	Manzullo
Boehner	Gingrich	Margolies-Mezvinsky
Bonilla	Glickman	Markey
Bonior	Gonzalez	Martinez
Borski	Goodlatte	Matsui
Boucher	Goodling	Mazzoli
Brewster	Gordon	McCandless
Brooks	Goss	McCloskey
Browder	Grams	McCollum
Brown (CA)	Grandy	McCrery
Brown (FL)	Green	McCurdy
Brown (OH)	Greenwood	McDermott
Bryant	Gunderson	McHale
Bunning	Gutierrez	McHugh
Buyer	Hall (OH)	McInnis
Byrne	Hall (TX)	McKeon
Callahan	Hamburg	McKinney
Calvert	Hamilton	McMillan
Camp	Hancock	McNulty
Canady	Hansen	Meehan
Cantwell	Harman	Meek
Cardin	Hastert	Menendez
Castle	Hastings	Meyers
Chapman	Hayes	Mfume
Clay	Hefley	Mica
Clayton	Hefner	Michel
Clement	Herger	Miller (CA)
Clinger	Hilliard	Miller (FL)
Clyburn	Hinchey	Mineta
Coble	Hoagland	Minge
Coleman	Hobson	Mink
Collins (GA)	Hochbrueckner	Moakley
Collins (IL)	Hoekstra	Molinari
Collins (MI)	Holden	Mollohan
Combest	Horn	Montgomery
Condit	Houghton	Moorhead
Conyers	Hoyer	Moran
Cooper	Huffington	Morella
Coppersmith	Hughes	Murphy
Costello	Hutchinson	Murtha
Cox	Hutto	Myers
Coyne	Hyde	Nadler
Cramer	Inglis	Natcher
Crapo	Inhofe	Neal (MA)
Cunningham	Inslee	Neal (NC)
Danner	Istook	Nussle
Darden	Jacobs	Oberstar
de la Garza	Jefferson	Obey
Deal	Johnson (CT)	Olver
DeFazio	Johnson (GA)	Ortiz
DeLauro	Johnson (SD)	Orton
Dellums	Johnson, E.B.	Owens
Derrick	Johnson, Sam	Oxley
Deutsch	Johnston	Packard
Diaz-Balart	Kanjorski	Pallone
Dickey	Kaptur	Parker
Dingell	Kasich	Pastor
Dixon	Kennedy	Paxon
Dooley	Kennelly	Payne (NJ)
Dornan	Kildee	Payne (VA)
Duncan	Kim	Pelosi
Durbin	King	Penny
Edwards (TX)	Kingston	Peterson (FL)
Peterson (MN)	Schiff	Taylor (MS)
Petri	Schroeder	Taylor (NC)
Pickett	Schumer	Tejeda
Pombo	Scott	Thomas (CA)
Pomeroy	Sensenbrenner	Thomas (WY)
Porter	Serrano	Thornton
Poshard	Shaw	Thurman
Price (NC)	Shays	Torres
Pryce (OH)	Shepherd	Towns
Quinn	Shuster	Traficant
Rahall	Sisisky	Tucker
Ramstad	Skaggs	Unsoeld
Rangel	Skeen	Upton
Ravenel	Skelton	Valentine
Reed	Slattery	Velazquez
Regula	Slaughter	Vento
Reynolds	Smith (IA)	Visclosky
Richardson	Smith (MI)	Volkmer
Ridge	Smith (NJ)	Vucanovich
Roberts	Smith (OR)	Walker
Roemer	Smith (TX)	Walsh
Rogers	Snowe	Washington
Rohrabacher	Solomon	Waters
Ros-Lehtinen	Spence	Watt
Rose	Spratt	Waxman
Roth	Stark	Weldon
Roukema	Stearns	Wheat
Rowland	Stenholm	Wilson
Roybal-Allard	Stokes	Wise
Royce	Strickland	Wolf
Rush	Studds	Woolsey
Sabo	Stump	Wyden
Sanders	Stupak	Wynn
Sangmeister	Sundquist	Yates
Santorum	Swett	Young (AK)
Sarpalius	Swift	Young (FL)
Sawyer	Synar	Zeliff
Saxton	Tanner	Zimmer
Schaefer	Tauzin	

NOT VOTING—18

Carr	Henry	Rostenkowski
Dicks	LaFalce	Sharp
Dreier	Manton	Talent
Edwards (CA)	McDade	Torricelli
English (OK)	Pickle	Whitten
Ford (TN)	Quillen	Williams

□ 1131

Ms. SNOWE, Ms. MARGOLIES-MEZVINSKY, Ms. SCHENK, Miss COLLINS of Michigan, and Mr. COYNE changed their vote from "yea" to "nay."

Mr. RUSH changed his vote from "present" to "no."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

FAMILY PLANNING AMENDMENTS ACT OF 1993

The SPEAKER pro tempore (Mr. MFUME). Pursuant to House Resolution 138 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 670.

□ 1132

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 670) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes,

with Mr. MONTGOMERY, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, March 24, 1993, amendment No. 3 offered by the gentleman from California [Mr. WAXMAN] had been disposed of.

It is now in order to consider amendment No. 5 printed in House Report 103–41.

AMENDMENT OFFERED BY MR. DELAY

Mr. DELAY. Mr. Chairman, pursuant to the rule, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DELAY: Page 4, after line 3, insert the following subsection:

(c) ELIGIBILITY FOR GRANTS.—Section 1001(a) of the Public Health Service Act (42 U.S.C. 300(a)) is amended—

(1) in the first sentence, by striking "public or nonprofit private entities" and inserting "States";

(2) by inserting after the first sentence the following sentence: "In expending such a grant or contract, a State may operate such projects directly or through grants to and contracts with public or nonprofit private entities."; and

(3) in the last sentence, by striking "entities which receive grants or contracts" and inserting "States and other entities receiving amounts from grants or contracts".

Page 4, line 4, strike "(c)" and insert "(d)".

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DELAY] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I know by Members seeing me standing up today that they may think this is a pro-life amendment. This is not a pro-life amendment; this is a good government amendment. This actually frees up more family planning money and title X moneys to those planning clinics that deserve them. This is an efficiency-in-government amendment. This is changing the status quo that we hear a lot about in this Chamber.

Mr. Chairman, my second amendment deals with reforming the Title X Program system of grant allocation. Currently, State health departments, public and private nonprofit entities are equally eligible to apply directly to the Secretary of Health and Human Services for grants under the Title X Family Planning Program. However, States are the sole grantee in only 26 States. Eleven States share title X funds with other entities in their State, and 14 States, including the District of Columbia, do not have any control over the title X funds the State receives. In sum, nearly 40 percent of all title X funds are spent outside of the control of the States.

Now, as a businessman, to me this demonstrates very poor management. Who is more likely to be able to identify where the gaps are in local family planning services, or which private entities are going to make best use of limited resources—a Federal bureaucrat in Washington, DC, or a State health department official? My amendment would make only States and territories eligible for title X grants. Other public and private nonprofit entities could then apply to the State and receive title X funds through the State. The State would thus be able to determine where the funds are most necessary and who would make best use of them.

The current system of title X grant allocation is severely outdated. When the title X of the Public Health Service Act was established more than 20 years ago, it was true that a number of States did not provide family planning services. In fact, in 1970, Congress found that family planning services were available in only 40 percent of the counties in the United States. It was argued that it was necessary to allow other public and private nonprofit entities to receive direct funding in order to make services available.

However, much has changed in that time. Title X is no longer the principle source of family planning funding. Medicaid, title XX of the Social Services block grant, and the maternal and child health block grant are only a few of the other sources of funding that are available. As States receive funding directly under all of these other Federal programs, it does not make any sense that title X funding is not included.

Public health problems such as AIDS, infant mortality, and other sexually transmitted diseases require coordination with family planning services. The lack of coordination of services between family planning and prenatal care is cited as a major contributing factor in low birthweights and infant mortality. Those most likely to use title X clinics, adolescents and low-income women, are at the greatest risk of problem pregnancies. Only States have the ability to coordinate all of these programs. Title X should not continue to be kept separate from other public health services—it is time for reform.

Limiting title X grants to States would also be more cost efficient, as the Secretary would no longer have to make grant allocations to over a hundred different entities. This is simply good government. At a time when the Federal Government is seeking ways to control the cost of health care, we should not overlook the costs of administration. Not only would eliminating that layer of administration from the Secretary's responsibilities cut costs, most States are already equipped for allocating title X grant money.

Let me state again that it is time for reform. We owe it to the American people to scrutinize every program the Federal Government administers to try to make it more efficient and cut back on unnecessary waste. Here is a prime example. I urge my colleagues to take advantage of it and vote yes on the Delay grant allocation reform amendment.

□ 1140

Members, look and see if your State is already doing this. Bring the other 14 and 11 States remaining into the 1990's.

Those of my colleagues that are for family planning, this will free up more money for family planning because it will cut down on all the overhead in these nonprofit entities.

Madam Chairman, I reserve the balance of my time.

Mr. WAXMAN. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in opposition to this amendment.

This amendment would severely curtail family planning services in a number of States.

Let us begin with a little background on how the family planning program really works.

States are already eligible grantees for family planning services.

In fact, if States apply, they are given preference over any other entity for receiving funds under this program. They are given a sort of "right of first refusal."

This system gives States the predominant role that they seek in health care services.

And in 38 States, the State now receives title X funding.

But if the State does not apply, or if the State does not apply for services in all parts of the State, or if the State does not submit an approvable application, then other nonprofit clinics are allowed to apply to get Federal assistance to provide family planning services.

In 12 States now, nonprofits receive all title X funding to provide family planning services.

So, since States now have preference for getting family planning funding if they apply, the only effect of the amendment before us is either to force States to apply when they do not want to or to cut off family planning services in those 12 States.

Some States do not want to apply because they do not run health programs throughout the State. Some smaller States, for instance, do not have local health departments to administer clinic programs.

And, let us be blunt, some States do not apply because they do not want to enter the debate about family planning services.

If we enact this amendment, in these States, there will be no family planning clinics. The result will be more unintended pregnancies, more abortions, and more low-birthweight babies.

I urge defeat of the amendment. If States want to run this program, they can. If they do not, we should ensure that women have access to family planning services anyway.

Madam Chairman, I reserve the balance of my time.

Mr. DELAY. Madam Chairman, I yield 2 minutes and 15 seconds to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Madam Chairman, the DeLay amendment addresses how the advise and consent of Government should be handled insofar as abortion counseling is concerned. I was not going to become involved in the debate today because it always seems to be an exercise in futility. I do not know of any Members of the U.S. House of Representatives that are undecided on the issue of abortion. Each Member is either for abortion or against abortion.

The word "choice" has been used by proabortionists to confuse the issue. In fact, the most brilliant public relations man in the history of the industry was the guy that discovered the word "choice." Prior to that time, it was called the proabortion movement and they were going nowhere. When they changed the name of the proabortion movement to pro-choice, a large number of confused Americans seemed to think that pro-choice was a reasonable route to take.

In a few weeks, we will be considering the Freedom of Choice Act and the proabortionists will be flaunting numbers around to try to convince Americans that if they are pro-choice, then they are for the Freedom of Choice Act. I plan to devote a lot of time to discussion against the Freedom of Choice Act, but suffice it to say today, the Freedom of Choice Act will strike down all State restrictions and allow abortions all the way through the 9th month for any reason whatsoever.

Tonight, I am expecting the birth of my first grandchild. I plan to be there at the glorious moment of birth. But if the Freedom of Choice Act were law today, there would be nothing to prevent my daughter-in-law from terminating the life of my grandchild only hours before birth. Of course, she would never do that but the law would allow it.

So today the proabortionists in this Chamber are using the pro-choice numbers indicating support for counseling proabortion.

This morning at our weekly prayer breakfast our speaker was Hon. ROSCOE BARTLETT. From an academic standpoint, Congressman BARTLETT is the most learned Member of this body. He observed in his speech that the polls on the matter of abortion really do not mean very much and that the results are all determined by the way the questions are asked. If the pollster asks, "Do you believe a woman should have the right of choice?" The response would be quite different than if the pollster asks, "Do you believe the woman should have the right to kill her unborn child?

Yesterday, a young couple I had not known before came into my office. They were from my district in Tulsa, OK. Their names are Jerry and Elizabeth McKelvey. In visiting with them, I found that they were newlyweds and had met at an antiabortion rally in Wichita, KS. I told them it was coincidental they would make their first trip to Washington at such an historical moment. As Congressman HYDE said yesterday, "This vote will mark the dawn of the abortion era."

One hundred years from now, history will reflect this barbaric era where millions of unborn babies were brutally murdered with the advice and consent of government. It is that advice and consent that we are considering today.

Mr. WAXMAN. Madam Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Madam Chairman, I thank the gentleman for yielding time to me. Madam Chairman, I rise reluctantly to oppose the DeLay amendment which would require title X grants to be given only to State health and human services agencies, instead of directly to the public or nonprofit providers.

Title X has been an important program in my home State of Pennsylvania. I was a strong proponent of the program throughout my tenure in the State legislature, and I will continue to support it in the Congress.

Family planning should not be a political issue. It is an important national women's health issue. Without family planning each year thousands of additional low-income women would either have abortions or give birth and be forced onto this country's welfare roles at an added cost to the Treasury of billions of dollars.

The Department of Health and Human Services already provides grants to State health departments exclusively in 31 States. So in those 31 States the DeLay amendment would have no impact at all. In seven States, title X funds go in part to State health departments and in part to private or public nonprofit agencies. So in those additional States, the DeLay amendment would have only minimal impact. But in 12 States, including my State of Pennsylvania, title X funds go to regional umbrella agencies who then subcontract with local agencies. And in those States the DeLay amendment could do some real damage.

My State of Pennsylvania administers the Title X Program through four family planning councils around the State. These family planning councils distribute title X funds to respected hospital-based clinics, local health departments, and other nonprofits organizations.

The DeLay amendment would interfere with the ability of family planning advocates in States, like Pennsylvania, to organize programs that meet their needs, It would result in new, additional, and unnecessary bureaucratic cost and overhead. Furthermore, the DeLay amendment would subject the Title X Program to the ebb and flow of politics at the State level. To date, the program has been immune from State politics.

Family planning services are too important to the women of my State to allow politics to get in the way.

If you support family planning, then you should vote against this amendment because it interferes with existing local decisionmaking.

I encourage my colleagues to defeat the DeLay amendment.

□ 1150

Mr. DELAY. Madam Chairman, I would ask the Chair, how much time I have remaining.

The CHAIRMAN. The gentleman from Texas has 1 minute remaining.

Mr. DELAY. Madam Chairman, I reserve the balance of my time.

Mr. WAXMAN. Madam Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Madam Chairman, no matter where we stand on the difficult issue of abortion, I believe Members, and particularly Republicans, ought to be very cautious about supporting the position of a new mandate on States. That is what this is. In Connecticut we like the way we distribute family planning funds through the private sector. Their administrative costs are far lower, their oversight of the programs is far more aggressive. They do such a good job, in fact, that we distribute all State funds that way, too.

For me to vote for our State bureaucracy to have to absorb this responsibility would be to go against everything I believe. I oppose new mandates. I support the private sector as a way of providing more efficient service, and out of the 85 grantees across the Nation, only 38 States have chosen to be the primary grantee.

If the States in their wisdom think that that serves their people best, why are we here today to say that we know better than they, and they have to do it our way? This is really not an abortion issue, this is a good-government issue.

As one who wants to see government press things out of the bureaucracy and into the nonprofit private sector, I want my State to be able to distribute human services funds as efficiently and as effectively as they can.

Second, I want them to do oversight and to think about quality. My experience with government oversight of quality, both from the Federal and the State level, is not good. My experience as a former member of the appropriations committee of my United Way agency of oversight at the local level is very good. I am proud of the way Connecticut distributes its funds. It does it efficiently, it does it well. The programs are high quality.

I certainly am going to vote against mandating the State bureaucracy assuming this responsibility.

Mr. WAXMAN. Madam Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Madam Chairman, I rise today in support of H.R. 607, the Family Planning Reauthorization Act of 1993. I am both happy and relieved to know that finally, after years of having our health problems ignored or pushed to the side, we are including the health needs of women in the larger agenda of health care reform.

The family planning amendments authorizes $238 million for fiscal year 1994 and $270.5 million by fiscal year 1995. Some of the key authorizations include $6 million for family planning training programs, $220 million for clinics serving low-income women, and $12 million for family planning information and education.

Most importantly, the family planning reauthorization bill provides low-income women with all of the information necessary to determine how to manage an unintended pregnancy. No longer will the gag rule loom over the heads of millions of women who are faced with this difficult and very personal decision. We are jubilant to see that Reagan era restriction gone for good.

Yet even as we take some steps forward, there are unfortunate areas where progress is hindered by ghosts of the Reagan and Bush administrations. As it stands, title X legislation states that clinics must abide by State parental notification laws. Congressman BLILEY has introduced an amendment to H.R. 670 that would not permit judicial bypass, thereby causing teenage girls to forfeit their right to appear before a judge to obtain an abortion without parental consent. This damaging amendment would also impose a 48-hour waiting period, as well as require parental notification if a woman has been sexually abused by a relative other than her father. That means that a woman can be raped by a brother, a cousin, or an uncle—and face the prospect of having no means of obtaining a legal, safe, abortion.

Just a few weeks ago a doctor at a family planning clinic in Florida was murdered in cold blood by an antichoice fanatic. The callous reaction by other antiabortion activists was astounding. They even claimed that he was not one of theirs, meaning that they were not responsible for his actions. We must end this growing campaign to illegally reverse Roe versus Wade through intimidation and violence.

We cannot continue to stumble our way into the future. We have an opportunity to move swiftly and effectively, and to obliterate the injustices of the last 12 years that have been heaped upon the women of this Nation. I strongly urge my colleagues to vote in favor of this critical piece of legislation, without any restrictive amendments that stand in the way of progress.

Mr. WAXMAN. Madam Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Madam Chairman, I rise in opposition to the DeLay amendment.

Madam Chairman, the DeLay amendment proves the old saying you can't judge a book by its cover. This amendment is no improvement on H.R. 670 as some of its supporters suggest, it is actually designed to gut the Title X Program by allowing States which opt out of participating in the program to effectively block all title X funds from being used in their State—by private as well as public clinics.

It seems that the opponents of safe accessible family planning services will go to incredible lengths to ensure that others are not able to use these important services. The women of America are becoming very tired of these innocent-looking amendments which have the appearance of good will but ultimately are designed to limit their access to complete information on family planning.

The restrictions on the Title X Program offered in the DeLay amendment would make it tremendously more difficult for women in many parts of our country to avail themselves of these important pregnancy management services.

Madam Chairman, I hope that my colleagues will see clearly that this amendment will only hurt this program, and by extension, hurt the women who use it. I urge my colleagues to join me in voting to defeat this mischievous DeLay amendment.

Mr. DELAY. Madam Chairman, I yield myself the remainder of my time.

The CHAIRMAN. The gentleman from Texas [Mr. DELAY] is recognized for 3¼ minutes.

Mr. DELAY. Madam Chairman, this is not a mischievous amendment. We have been trying to do this kind of reform for the last 10 years or more, and bring us into the 1990's. The arguments that the chairman uses in my opinion are 20-year-old arguments, when States did not have facilities to administer these grants. They now have the facilities and are administering block grants. Every State has the maternal and child health block grants being administered. All we have to do is bring it to title X.

This has nothing to do with affecting family planning services. It does not attack women. It has nothing to do with women's rights. All these clinics will continue to be in operation. In fact, more services may be offered to women because we will be able to save administrative costs.

In Pennsylvania, with four councils, they have four overhead costs administering those four councils that could be brought together and saved by administering through Pennsylvania's Department of Health that already administers all kinds, in fact, 60 percent of family planning moneys, kinds of grants more than title X grants. It is already being done in the States.

All we are saying is if we want title X funds, it has to be administered through the State, and they can make one application to the State rather than the Federal Government, and in making the application, it would be much easier to administer and it would save a lot of money.

This is not an attack on family planning services. This is reform to change the status quo and save money, and still provide, in fact, more family planning services to the women of this country.

Mr. WAXMAN. Madam Chairman, I urge a no vote on the DeLay amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DELAY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELAY. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 142, noes 277, not voting 16, as follows:

[Roll No. 102]

AYES—142

Allard	Dickey	Johnson, Sam
Armey	Doolittle	Kasich
Bachus (AL)	Dornan	Kildee
Baker (CA)	Duncan	Kim
Baker (LA)	Dunn	King
Ballenger	Emerson	Kingston
Barcia	English (OK)	Klink
Barrett (NE)	Everett	Knollenberg
Bartlett	Ewing	Kyl
Bateman	Fields (TX)	LaFalce
Bereuter	Gallegly	Levy
Bilirakis	Gillmor	Lightfoot
Bliley	Goodlatte	Linder
Boehner	Goodling	Lipinski
Bonilla	Goss	Livingston
Bunning	Hall (TX)	Manzullo
Burton	Hancock	McCollum
Buyer	Hansen	McCrery
Callahan	Hastert	McKeon
Camp	Hayes	Mica
Canady	Herger	Michel
Castle	Hobson	Miller (FL)
Coble	Hoekstra	Mollohan
Collins (GA)	Hoke	Moorhead
Combest	Holden	Myers
Costello	Hunter	Nussle
Crane	Hutchinson	Ortiz
Crapo	Hutto	Orton
Cunningham	Hyde	Oxley
de la Garza	Inglis	Packard
DeLay	Inhofe	Parker
Diaz-Balart	Istook	Paxon

Peterson (MN)	Saxton	Sundquist
Petri	Schaefer	Talent
Pombo	Sensenbrenner	Tauzin
Poshard	Shaw	Taylor (MS)
Quinn	Shuster	Taylor (NC)
Rahall	Skeen	Tejeda
Regula	Smith (MI)	Thomas (WY)
Roberts	Smith (NJ)	Volkmer
Roemer	Smith (OR)	Vucanovich
Rogers	Smith (TX)	Walker
Rohrabacher	Solomon	Walsh
Ros-Lehtinen	Spence	Wolf
Roth	Stearns	Young (AK)
Royce	Stenholm	Young (FL)
Santorum	Stump	
Sarpalius	Stupak	

NOES—277

Abercrombie	Foglietta	Margolies-Mezvinsky
Ackerman	Ford (MI)	Markey
Andrews (ME)	Fowler	Matsui
Andrews (NJ)	Frank (MA)	Mazzoli
Andrews (TX)	Franks (CT)	McCloskey
Applegate	Franks (NJ)	McCurdy
Bacchus (FL)	Frost	McDermott
Baesler	Gallo	McHale
Barlow	Gejdenson	McHugh
Barrett (WI)	Gekas	McInnis
Becerra	Gephardt	McKinney
Beilenson	Geren	McMillan
Bentley	Gibbons	McNulty
Berman	Gilchrest	Meehan
Bevill	Gilman	Meek
Bilbray	Glickman	Menendez
Bishop	Gonzalez	Meyers
Blackwell	Gordon	Mfume
Blute	Grams	Miller (CA)
Boehlert	Grandy	Mineta
Bonior	Green	Minge
Borski	Greenwood	Mink
Boucher	Gunderson	Moakley
Brewster	Gutierrez	Molinari
Brooks	Hall (OH)	Montgomery
Browder	Hamburg	Moran
Brown (CA)	Hamilton	Morella
Brown (FL)	Harman	Murphy
Brown (OH)	Hastings	Murtha
Bryant	Hefley	Nadler
Byrne	Hefner	Natcher
Calvert	Hilliard	Neal (MA)
Cantwell	Hinchey	Neal (NC)
Cardin	Hoagland	Norton (DC)
Chapman	Hochbrueckner	Oberstar
Clay	Horn	Obey
Clayton	Houghton	Olver
Clement	Hoyer	Owens
Clinger	Huffington	Pallone
Clyburn	Hughes	Pastor
Coleman	Inslee	Payne (NJ)
Collins (IL)	Jacobs	Payne (VA)
Collins (MI)	Jefferson	Pelosi
Condit	Johnson (CT)	Penny
Conyers	Johnson (GA)	Peterson (FL)
Cooper	Johnson (SD)	Pickett
Coppersmith	Johnson, E. B.	Pomeroy
Cox	Johnston	Porter
Coyne	Kanjorski	Price (NC)
Cramer	Kaptur	Pryce (OH)
Danner	Kennedy	Ramstad
Darden	Kennelly	Rangel
de Lugo (VI)	Kleczka	Ravenel
Deal	Klein	Reed
DeFazio	Klug	Reynolds
DeLauro	Kolbe	Richardson
Dellums	Kopetski	Ridge
Derrick	Kreidler	Rose
Deutsch	Lambert	Rostenkowski
Dicks	Lancaster	Roukema
Dingell	Lantos	Rowland
Dixon	LaRocco	Roybal-Allard
Dooley	Laughlin	Rush
Durbin	Lazio	Sabo
Edwards (CA)	Leach	Sanders
Edwards (TX)	Lehman	Sangmeister
Engel	Levin	Sawyer
English (AZ)	Lewis (CA)	Schenk
Eshoo	Lewis (FL)	Schiff
Evans	Lewis (GA)	Schroeder
Fawell	Lloyd	Schumer
Fazio	Long	Scott
Fields (LA)	Lowey	Serrano
Filner	Machtley	Shays
Fingerhut	Maloney	Shepherd
Fish	Mann	Sisisky
Flake	Manton	Skaggs
Skelton	Thornton	Waters
Slattery	Thurman	Watt
Slaughter	Torkildsen	Waxman
Smith (IA)	Torres	Weldon
Snowe	Torricelli	Wheat
Spratt	Towns	Whitten
Stark	Traficant	Williams
Stokes	Tucker	Wilson
Strickland	Underwood (GU)	Wise
Studds	Unsoeld	Woolsey
Swett	Upton	Wyden
Swift	Valentine	Wynn
Synar	Velazquez	Yates
Tanner	Vento	Zeliff
Thomas (CA)	Visclosky	Zimmer
	Washington	

NOT VOTING—16

Archer	Ford (TN)	McDade
Barton	Furse	Pickle
Carr	Gingrich	Quillen
Dreier	Henry	Romero-Barcelo (PR)
Faleomavaega (AS)	Martinez	Sharp
	McCandless	

□ 1217

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. Pickle against.

Mr. FORD of Michigan and Mr. OBERSTAR changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GRAMS. Mr. Chairman, on rollcall vote No. 102 regarding the DeLay amendment to the bill H.R. 670, I am recorded as having voted "no." My intention was to vote "yes."

The CHAIRMAN. It is now in order to consider amendment No. 6.

It is now in order to consider amendment No. 8 to be offered by the gentleman from Indiana [Mr. BURTON].

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BURTON of Indiana: Page 4, after line 3 insert the following subsection:

(c) INFORMATION ON CONDOMS.—Section 1001 of the Public Health Service Act, as amended by subsection (a) of this section, is amended by inserting after subsection (b) the following subsection:

"(c) The Secretary may not make an award of a grant or contact under this section unless the applicant for the award agrees that the family planning project involved will—

"(1) distribute only those condoms meeting minimum standards established by the Food and Drug Administration for the prevention of pregnancy and the prevention of the transmission of sexually transmitted diseases; and

"(2) advise individuals of the benefits of the proper use of condoms, of the extent of risk that still exist with condom usage, and of the fact that condoms currently available do not completely eliminate the risk of pregnancy or the transmission of sexually transmitted diseases.".

Page 2, strike lines 9 and 10 and insert the following:

(1) by redesignating subsections (b) through (d) as subsections (d) through (f), respectively; and

Page 4, line 4, strike "(c)" and insert "(d)".

Page 4, line 5, strike "1001(e)" and insert "1001(f)".

Page 4, line 8 striking "(e)" and insert "(f)".

The CHAIRMAN. Pursuant to the rule, the gentleman from Indiana [Mr. BURTON] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, on television over the past several years, mainly due to the AIDS crisis facing America, there have been numerous public service announcements and commercials pointing out that condoms are a method that can be employed for safer sex, they call it.

□ 1220

Unfortunately, these commercials or public service announcements have indicated to a lot of young people that there is no real risk involved. And so, for that reason, I feel it is imperative that the family planning clinics and other organizations that counsel young people be mandated to tell them of the risks involved; that is, that condoms are not a panacea for control of sexually transmitted diseases, such as AIDS, gonorrhea, or syphilis, and also that condoms also will not prevent pregnancies, in many cases. As a matter of fact, according to a number of different research institutes, condoms have a failure rate of anywhere from 12 percent to as high as 45 or 50 percent, depending upon what kind of condoms you are talking about.

Now, we have talked to the Planned Parenthood people, and most of the Planned Parenthood clinics around the country are counseling young people who come to them on the dangers that still exist even if you use this kind of device. So, for that reason, Planned Parenthood does not oppose this amendment. In fact, I believe Planned Parenthood is in support of it.

All we are doing is codifying what is already being done, No. 1; and, No. 2, it is going to force those family planning clinics that do not now spell out all of the information for young people, to do so.

This needs to be done for two reasons: To avoid unnecessary pregnancies, No. 1; and, 2, to make sure that young people know that they can still get the AIDS virus or other sexually transmitted diseases even if they use condoms.

Condoms are not a panacea for child prevention or a panacea for sexually transmitted disease prevention.

With that, Madam Chairman, I reserve the balance of my time.

AMENDMENT OFFERED BY MR. WAXMAN TO THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. WAXMAN. Madam Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WAXMAN to the amendment offered by Mr. BURTON of Indiana: In the matter proposed by the amendment to be inserted on page 4 of the bill, after line 3, in section 1001(c)(1) of the Public Health Service Act (as proposed to be added by such matter), strike "meeting minimum standards established by" and insert the following: "meeting current requirements for quality control and labeling, and any subsequently developed standards, established by".

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Madam Chairman, it is my understanding that the gentleman from Indiana, the author of the amendment, does not oppose my amendment, but let me briefly explain what it does.

The Burton amendment as it stands would require family planning clinics to comply with FDA standards that don't exist.

The FDA has general regulations on condoms as medical devices. These regulations are about quality control and labeling.

Condoms, as what some have called the world's oldest medical device, have always been around and have never been fully regulated for their ability to prevent pregnancy or sexually transmitted diseases.

My amendment to the Burton amendment would require that family planning clinics dispense only those condoms that comply with existing FDA requirements and with any subsequently developed requirements about prevention of pregnancy or sexually transmitted diseases.

Madam Chairman, my amendment to the amendment offered by the gentleman from Indiana [Mr. BURTON] would require that family planning clinics dispense only those condoms that comply with existing FDA requirements and with any subsequently developed requirements about prevention of pregnancies or sexually transmitted diseases.

I would hope the gentleman from Indiana would find this consistent with his amendment.

Mr. BURTON of Indiana. Madam Chairman, will the gentleman yield briefly?

Mr. WAXMAN. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Madam Chairman, my amendment is——

I just want to make sure, for the record, that this is going to codify what is already being done, No. 1; and, No. 2, the family planning clinics will in the future have to explain to young people the dangers that still exist even though these devices are used.

Mr. WAXMAN. The gentleman is correct that it would require that they follow the FDA regulations in effect now and in the future and that they provide counseling on the use of condoms.

Mr. BURTON of Indiana. I thank the gentleman for yielding, and I support his perfecting amendment.

Madam Chairman, I yield back the balance of my time.

Mr. WAXMAN. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN] to the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON] as amended.

The amendment, as amended, was agreed to.

Mr. FAZIO. Madam Chairman, I rise in support of H.R. 670, the bill that will reauthorize funding for title X of the Public Health Service Act. Title X, the Federal family planning program, provides family planning and other preventive health care services to approximately 4 million low-income women and teenagers at 4,000 clinics across America. H.R. 670 will authorize this critical program for the first time since 1985.

The United States is the only developed country where teen pregnancy has been increasing in recent years. But, at least in part because title X has not been reauthorized for 8 years, its funding has decreased by two-thirds between 1980 and 1990. This is primarily due to the controversy that sometimes surrounds the program, as well as to misconceptions about its role. For example, although the use of title X funds for abortion has always been prohibited, and there is nothing in the bill that changes this, many perceive title X as a pro-choice, or pro-abortion program.

Many people are also unaware of the scope of the title X Program, as well as of the affect that it has on the lives of millions of Americans. What a lot of us do not realize is that title X does more than assist women with family planning by providing contraceptive counseling and supplies. It also provides infertility services, as well as counseling, screening, and referral for basic gynecologic care, breast and cervical cancer, hypertension, diabetes, anemia, kidney dysfunction, diabetes, sexually transmitted diseases and HIV. Without title X, millions of American women would have no other accessible, affordable source for quality, comprehensive health care services. It is the only source of health care for 83 percent of its clients and for many of them it is the single entry point into the entire health care system.

Title X supports public health departments; Indian nations; statewide, regional and local family planning councils; hospitals; university medical centers; community action organizations; neighborhood health centers; nursing services; and, yes, planned parenthood affiliates.

California has received title X funds since the Public Health Services Act was passed in 1970. In 1991, California clinics used these funds to provide services to approximately 450,000 clients. Twenty-six percent of these clients are under 20 years of age, and 58 percent are aged 20 to 29. Last year, California family planning clinics received approximately $11 million in title X funds.

When we support contraceptive services—both care and supplies—we thwart unwanted pregnancies and, ultimately, the need for abortion. For example, according to the California Family Planning Council, as estimated 138,000 unintended pregnancies are averted in California every year as a result of publicly funded contraception. Each client seen at a title X funded clinic costs the Federal Government approximately $35.00 annually. And, every one of these dollars spent on family planning programs in California saves $11.20 in public costs associated with unintended pregnancy—such as Medi-Cal delivery and continuing maternity and infant care, Medi-Cal abortions, aid to families with dependent children, food stamps, and other social service costs. But the annual costs of unintended pregnancies for clients eligible for Medi-Cal coverage for maternity and infant care, AFDC, WIC, and food stamps average $9,383 for those women who carry their pregnancies to term.

H.R. 670 also reinforces the status quo when it comes to parental notification. It requires that clinics certify their compliance with State laws regarding parental notification or consent for the performance of an abortion on a minor, even though such abortions would only be performed with non-Federal funds. The bill, therefore, does not change any State laws regarding parental notification.

H.R. 670 also provides clarification with respect to the authority of family planning clinics to provide information and counseling regarding family planning. It requires them to provide a patient with complete, nondirective information about her pregnancy, if she asks for it.

H.R. 670 is supported by all the major medical groups, including the American Medical Association, the American Nurses Association, the American College of Obstetricians and Gynecologists, the American Medical Women's Association, and the American Public Health Association.

If we truly care about the health and welfare of our people, we have no choice but to support this reauthorization of America's family planning program. Madam Chairman, I urge my colleagues on both sides of the aisle to support the bill.

Ms. WOOLSEY. I rise today to urge my colleagues to vote in favor of the Family Planning Amendments Act of 1993. I would like to take the time to commend my colleague from California, Chairman WAXMAN, for the years of work that have gone into crafting this piece of legislation. The final product is a bill that provides urgently needed health care services for low-income women.

Title X provides contraception services, infertility services, basic gynecological care, and counseling and referral to millions of women, many of whom have no other accessible or affordable source of health care. In addition, title X clinics often serve as a link-up point for low-income women to gain access to other necessary social services for which they qualify.

The money authorized under this bill is an investment in our women and children; estimates suggest that the program saves $4 for each $1 spent. Very simply, this body cannot afford not to pass this bill; it is the model of preventive health care at its best.

I fully support H.R. 670, and urge my colleagues on both sides of the aisle to join me.

Ms. NORTON. Madam Chairman, finally I am able to rise today to support this long overdue and critically necessary measure to extend family planning programs and activities authorized under title X of the Public Health Service Act and to codify the reversal of the gag rule lifted by President Clinton during his first week in office.

The nearly four million low-income women currently served by clinics funded by title X have received less than they deserve, less than they are entitled to, and far less than the rest of us. For example, in the first 6 months of 1992 over 7,200 women in the District of Columbia were served by clinics receiving title X funds, and almost 85 percent of these women were at or below 150 percent of the Federal poverty level. They share with other women across the country who use such services two disabilities; they have been denied reproductive information necessary to make informed decisions about their medical needs and they have suffered from the gradual reduced funding of family planning services. The figures are shocking. Total public funding for contraceptive services declined by one-third between 1980 and 1990. Constant-dollar expenditures under title X decreased by almost two-thirds between 1980 and 1990. Title X family planning and contraceptive services funding for the District of Columbia was cut by 43 percent from fiscal years 1981 to 1990.

The tragedy of these figures is that often those in this House who have most supported these cuts have at the same time even more vehemently opposed abortion. In one of the most irrational juxtapositions in recent public policy, title X opponents have assured a rising abortion rate. Decreased title X funding has resulted in the increased number of unintended pregnancies during the last decade, especially among blacks, the less educated and the poor. Increases in unplanned pregnancies occurred among the very women title X was designed to serve. The number of American women at risk of unintended pregnancies—that is, women who are fertile, sexually active and not using contraception or not using contraception accurately—rose from 34 million in 1982 to 39 million in 1988. Today, 20 percent of Medicaid-eligible women seeking abortions carry pregnancies to term due to a lack of public funding. And 22 percent of Medicaid-eligible women having second trimester abortions would have had earlier abortions had public funding been available. Late-term abortions increase the mother's risk of death and serious complications, and drive up the cost of the procedure by as much as 50 percent.

Abortions will always be available in this country. We cannot bar them but we can make them unnecessary. Title X, adequately funded and unrestricted as other medical services are, is a powerful anti-abortion remedy. Studies show that during the first decade of the Title X Program 2.3 million abortions were averted. Equally counterproductive in the defunding of title X has been the failure to expand access to other vital services such as basic gynecological care, prenatal care, delivery, infant care, adoption, and foster care. Because title X clinics serve as the entry point for millions of low-income women and adolescents into the Nation's health care system, this legislation must be viewed as a vital precursor of the health care that must come with full health care reform.

The recession, compounded by chronic unemployment and lack of adequate health insurance, have forced increasing numbers of women to rely on the services provided by these clinics. In the District of Columbia, over 93,000 women between the ages of 13 and 44 are at risk of unintended pregnancy and, therefore, in need of family planning counseling and reproductive health care. Almost 40,000 of these D.C. women are below 250 percent of the Federal poverty line; an additional 17,000 are below 100 percent of poverty. Title X clinics are the only available source of contraceptive and infertility services, basic gynecological care and health information counseling and referral for over 80 percent of the 4 million women served.

Indigent women in the District of Columbia have the most compelling case in the country. A Presidential veto exercised every year for the last 4 years has kept the District from using its own tax raised funds to finance abortions, in derogation of every principle of democracy and home rule. Particularly insulting and un-American has been the gag rule restricting poor women's access to information as to where to go for funds or advice in lieu of seeking help in the District. What was the point—to keep these D.C. women ignorant and therefore pregnant? What President Clinton has done by abolishing this two-tiered system of reproductive rights, this bill codifies today. H.R. 670 declares all women regardless of income to have equal rights to reproductive information.

H.R. 670 is one of the most vital pieces of legislation facing the Congress this term. It fits President Clinton's notion of investment and return in an extraordinary way. Recent studies show that for every $1 invested in family planning services, the Federal Government saves $4.40 in mandatory public health and social services. That's undeniable cost-effectiveness. This bill will finally make the health problems that affect women of every race and background a high priority, one we cannot afford to ignore.

Mr. ABERCROMBIE. Madam Chairman, I rise in strong support of H.R. 670, reauthorization of the Title X Family Planning Program. Since 1985 this program has endured 1 year extensions because of political maneuvering that had nothing to do with the primary functions of the program. These controversies included issues such as the gag rule, which barred title X clinics from providing abortion counseling or referrals. However, President Clinton's Executive order to rescind this decree finally clears the path for passage of this crucial program.

Title X of the Public Health Service Act was originally enacted in 1970 and was designed to provide grants for family planning service at clinics across the country. H.R. 670 clarifies the original intent of Congress and codifies the requirement that all title X grantees provide full information on pregnancy management options upon the request of the patient. These options include counseling and referral for prenatal care and delivery; infant care, foster care and adoption; and termination of pregnancy.

Currently, about 4,000 clinics receive title X grants serving more than 4 million low-income women and adolescents. For the vast majority of individuals who use title X clinics, it is the only source of health care. In the State of Hawaii we have a network of 21 clinics serving more than 17,000 individuals.

It is important to note that title X funds have never been used for abortion services. This has never been the intent of the program. However, in response to legitimate concerns H.R. 670 includes a provision that requires title X grant recipients that provide abortion services with non-Federal funds to certify their compliance with State parental notification or consent laws. Also, H.R. 670 provides an exemption for providers—on the basis of religious beliefs or moral convictions—to provide information regarding a pregnancy management option. In these instances patients would have to be directed to an agency that will provide the information that has been requested.

While most of the funding is directed toward providing grants to clinics for family planning services the bill also includes grants to educate personnel who provide family planning services at title X clinics. Furthermore, a section of the bill has been designed to develop and make available to the public information on family planning and population growth.

Mr. Speaker, we waited too long for reauthorization of the Federal family planning program. H.R. 670 is an important piece of legislation and plays an integral part in our health care system. Passage of H.R. 670 allows low-income women and adolescents to gain full access to necessary information so that they can make prudent decisions regarding their health and welfare. I urge my colleagues to support this bill.

Mr. McCANDLESS. Madam Chairman, several Members voted for this bill with the reasoning "It's not the money that counts, its the principle of the thing." Well Mr. Speaker, as for my vote, it's the money.

I rise in opposition to this legislation for the same reason I have opposed many other bills during my 10 year tenure in the House—the money.

How much money? In fiscal year 1993 we spent about $173 million. For fiscal year 1994, we will spend $238 million and for fiscal year 1995, we will spend over $270 million. This represents a 56-percent increase over the next 2 years. How can anyone believe this Congress is serious about deficit reduction when we pass bills this far over budget?

I favor repealing the gag rule. But this is the second time I have had to vote against repealing the gag rule due to budgetary reasons totally unrelated to abortion. The first being a re-

peal attached to the Labor/HHS appropriations. Let me make one thing clear—I favor repealing the gag rule. I voted to repeal it last year on a similar bill, even though it raised spending, but not to the unacceptable level this bill does. I supported President Clinton's repeal by Executive order.

I am growing increasingly angry at the arrogance of the big spenders who attach huge increases in funding to important legislation. This is not the time to railroad deficit-increasing bills through the Congress. We easily could have overturned the gag rule without spending another $97 million. We need to get on track toward cutting spending.

Of all the amendments offered, couldn't the Rules Committee find it in order to allow one amendment that would cut spending? Until they give me, and the Congress a chance to vote on eliminating waste and huge funding increases, I'm going to be voting against more legislation that I would normally support if we had some measure of fiscal sanity in the House.

Mr. DINGELL. Madam Chairman, title X is a critical public health program which provides funding for provision of family planning services to more than 4 million, mostly low-income, Americans. The program also provides information, education, training, and research in family planning.

The Title X Program annually prevents an estimated 1.2 million unintended pregnancies and thereby prevents more than half a million abortions. The statute has long provided—and continues to provide—that no Federal funding may be used to fund abortion as a method of family planning. Though one mission and accomplishment of the program has been the prevention of abortion, political interference has distracted those operating the program from doing their job as well as they might. Moreover the Congress has become distracted from helping promote the good work that title X accomplishes and has not reauthorized it in several years.

As the author of the prohibition on the use of Federal funds to pay for abortion as a method of birth control, I continue to believe in this policy. I also believe in the importance of this program. I have reviewed the alleged evidence that the program promotes abortions and found it wanting. Instead, I find a program which is accomplishing—admittedly against tall odds—its original mission of providing family planning services to American families.

In keeping with the mission of the program, this reauthorization increases funding for vital programs while continuing to keep the Federal Government out of the business of abortion. The legislation does not change the provision codified in section 1008 against use of Federal funds to pay for abortion as a method of birth control. With respect to parental notification for abortion conducted on minors, the bill essentially defers to State law by requiring clinics to certify compliance with such laws. Finally, the bill codifies the reversal of the gag rule. It protects the free speech of physicians whatever their stance on abortion by requiring discussion of all pregnancy options upon request while allowing a so-called conscience clause exception for those who are unable to meet this requirement.

I strongly support this legislation and recommend its passage.

Mr. BACHUS of Alabama. Madam Chairman, it is outrageous in this age of deficit reduction, that title X funding is slated to receive a 56 percent increase over last year. And the irony is that not one study has demonstrated that prior funding has been effective in reducing the number of unplanned pregnancies. Additionally, there has been a decline in the number of low-income women at risk of unintended pregnancy. Not only is this bill fiscally questionable, but by mandating abortion referral and counseling, it further distorts the original intent of title X funding—family planning.

In a recent poll, 88 percent of Americans support restrictions on access to abortion including parental notification. Ignoring the sentiments of the vast majority of Americans instead, this bill forces title X recipients to offer referrals for abortions at the patient's request. Even those caregivers with moral objections to abortion services are forced to refer patients to an organization to discuss pregnancy termination. In many states, even minors must be referred to an abortion provider upon request without any parental notification.

Title X money is intended for family planning. I submit that abortion is not a method of family planning. This money could be used for education and other pregnancy prevention measures. However, it is serving only to perpetuate the profit making abortion industry. Title X funding does this by cutting the overhead costs of the "for profit" abortion industry by allowing the money to be directed toward administrative costs of operating these facilities. Planned Parenthood, America's leading abortion provider and the largest recipient of title X funding, facilitates 32 abortions for each patient that receives prenatal care. Where's the parenthood in planned parenthood?

I respectfully encourage my colleagues to oppose this bill on the grounds that it is fiscally irresponsible, it ignores parental notification responsibilities, and it further deviates from the original intent of title X funding.

Mr. KOLBE. Madam Chairman, I have supported this reauthorization in the past—my position on the issue of a woman's right to choose has been consistently expressed in earlier debates. I support reversing the so-called gag rule, and I support the family planning program as a means of reducing the number of unwanted pregnancies and abortions.

I find this vote today quite difficult. Not because of the moral issues raised in the context of this bill—but because of the fiscal issues blatantly ignored by it. Mr. Chairman, the real issue in this bill is not abortion counseling, or a woman's right to choose. It is, very simply, funding. This is a reauthorization. So let's examine its merits apart from the emotional debate on abortion counseling, or parental notification and consent.

Title X of the Public Health Service Act of 1970 is a very important Federal program. Many women receive basic primary health care from this program. It represents our best hope for reducing unwanted pregnancies and for halting the spread of sexually transmitted diseases. And, certainly, this program's funding history has not been glorious. If we are committed to the goals of the program we must find ways to translate that philosophical commitment into a fiscal commitment. But this bill increases the authorized budget for title X by 37 percent in 1 year. It authorizes a $65 million increase in funding for fiscal year 1994 and another $32 million increase in fiscal year 1995. Over the 2 years of the authorization it is a total funding increase of 53 percent—with no offset.

How do we square this with the President's call to get serious about the deficit? How ironic that 1 short week after this body overwhelmingly approved new tax burdens on the vast majority of Americans, we will vote to increase authorized spending for one program by 37 percent. As a member of the Appropriations Committee, I can tell you that we are only kidding ourselves and others to believe Appropriations will make a 37-percent increase in spending for title X family planning. Where within the Labor, Health and Human Services and Education budget will we find the money? What program will be cut? Head Start? WIC? Pell grants? So, why not be honest up front and reauthorize this program at a fiscally responsible level?

I would also like to point out that these reauthorization figures are significantly higher than the amounts passed just 7 short months ago when we passed a conference report that was vetoed. Madam Chairman, what has changed in 7 short months? Seven months ago we passed, quite easily, a bill that reauthorized this program at fiscal years 1994 and 1995 amounts nearly $89 million less than the authorization we are considering here today—a more responsible, more realistic authorization.

As a member of the Appropriations Committee, I am quite sure that this program will not receive full funding next year. But I will fight that battle in my committee later this spring. I just wanted my colleagues who so often come to this well preaching about reform to know what they are getting in a vote for this bill.

I believe we must stop the deceptive procedure of authorizing enormous amounts that we know will never see the light of day in the Appropriation Committee, but which create pressure for added spending in future years. Time and time again we enact policy that fails to look at the big picture. Let's stop doing foolish things on emotional issues to score a few political points and get to the heart of what ails us. Perhaps the Speaker will give us permission to hang a big sign in the rear of the Chamber exclaiming "It's the deficit, stupid!" as a reminder.

Mrs. LLOYD. Madam Chairman, I rise in support of H.R. 670, a 2-year reauthorization of the Federal family planning program, title X of the Public Health Service Act. Title X is a primary health care program intended to make family planning services available to low-income women. The program partially funds about 4,000 clinics that provide health care services to 4 million American women annually.

Reauthorization of the family planning program is an important health care issue. Far too many low-income women are medically underserved because they don't have adequate health insurance or can't afford the services of a private physician. Many low-income women depend on title X funded clinics as their primary entry into the health care system and for preventive health care services,

including screening or referral for cervical and breast cancer, anemia, hypertension, kidney dysfunction, diabetes, STD, and HIV. For a large number of title X clients, family planning clinics are their only source of primary and preventative health care.

This is not a debate about abortion—as its proponents claim, and the bill will not provide Federal funding of abortions. Since the inception of the Title X Program in 1970, there has been a prohibition of title X funds for abortion services. Reports by the General Accounting Office and the Department of Health and Human Service's inspector general have substantiated that title X funds are not used to perform abortions.

The bill requires that family planning personnel provide counseling and referral services on all pregnancy options, including prenatal care and delivery, infant care, foster care, and adoption; and pregnancy termination. Such information is to be provided only at the client's request and only in a nondirective manner—not suggesting or advising one option over another.

This bill will codify President Clinton's lifting of the gag rule that limited these clinics ability to provide complete health care, by allowing them to discuss pregnancy termination.

This will free health care professionals to discuss all available options with title X clients and will prevent the establishment of one set of criteria for low-income women and a different set for women who are financially secure. It will give poor women equal access to the same information as women who can afford the services of a private physician.

Title X is a valuable, preventive health care program. Support the passage of H.R. 3090.

I support parental notification. Tennessee has a parental notification law in place today. The Bliley motion to recommit with instructions would take away our State's right and replace it with a Federal mandate. I support the original as it stands, because it protects the right of States to set parental notification laws.

Mr. DURBIN. Madam Chairman, though I support parental notification for abortion procedures, I cannot support the Bliley amendment to the reauthorization of title X family planning for three reasons.

The Bliley language limits waiver of parental notification to cases of incest, abuse, or neglect by a parent or legal guardian. This is a reasonable waiver but does not go far enough.

My own State of Illinois revised its definition of the crime of incest in 1984 to include sexual attacks not only by parents but also attacks by close relatives of the victim as well as persons residing in the household with the child continuously for at least 1 year.

This definition is more realistic and sensitive to the realities facing many families. The Bliley language does not take these realities into consideration.

Second, Mr. BLILEY allows an exception for parental notification only for the crime of incest. Illinois and at least five other States, Maryland, Michigan, New Jersey, Ohio, and Vermont, have replaced the crime of incest with new crimes such as sexual relations within families. Mr. BLILEY's language neither acknowledges these changes in State criminal practice nor provides for any way to make his approach to parental notification compatible with these new laws.

Finally, there is a carefully crafted provision in the Bliley language which allows for State preemption of the Federal parental notification provision. The wording of this language narrowly defines the State parental notification laws which would preempt the Federal standard. In fact, the definition is so narrow as to disqualify the parental notification laws in 21 States for purposes of preempting the Bliley Federal standard.

The language already included in the bill requires title X family planning clinics to certify compliance with State parental notification laws in force and is a better alternative to the Bliley language.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PICKETT) having assumed the chair, Ms. SLAUGHTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 670) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes, pursuant to House Resolution 138, she reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment adopted by the Committee of the Whole?

Mr. SOLOMON. Mr. Speaker, I demand a separate vote on the following amendments adopted in the Committee of the Whole: No. 1, the DeLay amendment requiring counselors to be professionals who have degrees in medicine or mental health, as amended by the Waxman amendment; No. 2, the so-called Waxman amendment regarding the conscience clause; and No. 3, the so-called Burton of Indiana amendment regarding condom standards, as amended by the Waxman amendment.

Mr. Speaker, I demand separate votes on those three amendments.

The SPEAKER pro tempore. The Clerk will report the first amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 2, line 18, insert before the period the following: ", and that such information will be provided only through individuals holding professional degrees in medicine or osteopathic medicine, nursing, clinical psychology, the allied health professions, or social work, through individuals meeting such other criteria as the Secretary determines to be appropriate for providing such information, or through individuals allowed under State law to provide such information".

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 12, as follows:

[Roll No. 103]

YEAS—418

Abercrombie	Deal	Holden
Ackerman	DeFazio	Horn
Allard	DeLauro	Houghton
Andrews (ME)	DeLay	Hoyer
Andrews (NJ)	Dellums	Huffington
Andrews (TX)	Derrick	Hughes
Applegate	Deutsch	Hutchinson
Archer	Diaz-Balart	Hutto
Armey	Dickey	Hyde
Bacchus (FL)	Dicks	Inglis
Bachus (AL)	Dingell	Inhofe
Baesler	Dixon	Inslee
Baker (CA)	Dooley	Istook
Baker (LA)	Doolittle	Jacobs
Ballenger	Dornan	Jefferson
Barcia	Duncan	Johnson (CT)
Barlow	Dunn	Johnson (GA)
Barrett (NE)	Durbin	Johnson (SD)
Barrett (WI)	Edwards (CA)	Johnson, E.B.
Bartlett	Edwards (TX)	Johnson, Sam
Barton	Emerson	Johnston
Bateman	Engel	Kanjorski
Becerra	English (AZ)	Kaptur
Beilenson	English (OK)	Kasich
Bentley	Eshoo	Kennedy
Bereuter	Evans	Kennelly
Berman	Everett	Kildee
Bevill	Ewing	Kim
Bilbray	Fawell	King
Bilirakis	Fazio	Kingston
Bishop	Fields (LA)	Kleczka
Blackwell	Fields (TX)	Klein
Bliley	Filner	Klink
Blute	Fingerhut	Klug
Boehlert	Fish	Knollenberg
Boehner	Flake	Kolbe
Bonilla	Foglietta	Kopetski
Bonior	Fowler	Kreidler
Borski	Frank (MA)	Kyl
Boucher	Franks (CT)	LaFalce
Brewster	Franks (NJ)	Lancaster
Brooks	Frost	Lantos
Browder	Furse	LaRocco
Brown (CA)	Gallegly	Laughlin
Brown (FL)	Gallo	Lazio
Brown (OH)	Gejdenson	Leach
Bryant	Gekas	Lehman
Bunning	Gephardt	Levin
Burton	Geren	Levy
Buyer	Gibbons	Lewis (CA)
Byrne	Gilchrest	Lewis (FL)
Callahan	Gillmor	Lewis (GA)
Calvert	Gilman	Lightfoot
Camp	Glickman	Linder
Canady	Gonzalez	Lipinski
Cantwell	Goodlatte	Livingston
Cardin	Goodling	Lloyd
Carr	Gordon	Long
Castle	Goss	Lowey
Chapman	Grams	Machtley
Clay	Grandy	Maloney
Clayton	Green	Mann
Clement	Greenwood	Manzullo
Clinger	Gunderson	Margolies-Mezvinsky
Clyburn	Gutierrez	Martinez
Coble	Hall (OH)	Matsui
Coleman	Hall (TX)	Mazzoli
Collins (GA)	Hamburg	McCandless
Collins (IL)	Hamilton	McCloskey
Collins (MI)	Hancock	McCollum
Combest	Hansen	McCrery
Condit	Harman	McCurdy
Conyers	Hastert	McDade
Cooper	Hastings	McDermott
Coppersmith	Hayes	McHale
Costello	Hefley	McHugh
Cox	Hefner	McInnis
Coyne	Herger	McKeon
Cramer	Hilliard	McKinney
Crane	Hinchey	McMillan
Crapo	Hoagland	McNulty
Cunningham	Hobson	Meehan
Danner	Hochbrueckner	Meek
Darden	Hoekstra	Menendez
de la Garza	Hoke	

Meyers	Reed	Stokes
Mfume	Regula	Strickland
Mica	Reynolds	Studds
Michel	Richardson	Stump
Miller (CA)	Ridge	Stupak
Miller (FL)	Roberts	Sundquist
Mineta	Roemer	Swett
Minge	Rogers	Swift
Mink	Rohrabacher	Synar
Moakley	Ros-Lehtinen	Talent
Molinari	Rose	Tanner
Mollohan	Rostenkowski	Tauzin
Montgomery	Roth	Taylor (MS)
Moorhead	Roukema	Taylor (NC)
Moran	Rowland	Tejeda
Morella	Roybal-Allard	Thomas (CA)
Murphy	Royce	Thomas (WY)
Murtha	Rush	Thornton
Myers	Sabo	Thurman
Nadler	Sanders	Torkildsen
Natcher	Sangmeister	Torres
Neal (MA)	Santorum	Torricelli
Neal (NC)	Sarpalius	Towns
Nussle	Sawyer	Traficant
Oberstar	Saxton	Tucker
Obey	Schaefer	Unsoeld
Olver	Schenk	Upton
Ortiz	Schiff	Valentine
Orton	Schroeder	Velazquez
Owens	Schumer	Vento
Oxley	Scott	Visclosky
Packard	Sensenbrenner	Volkmer
Pallone	Serrano	Vucanovich
Parker	Shaw	Walker
Pastor	Shays	Walsh
Paxon	Shepherd	Washington
Payne (NJ)	Shuster	Waters
Payne (VA)	Sisisky	Watt
Pelosi	Skaggs	Waxman
Penny	Skeen	Weldon
Peterson (FL)	Skelton	Wheat
Peterson (MN)	Slattery	Whitten
Petri	Slaughter	Williams
Pickett	Smith (IA)	Wilson
Pombo	Smith (MI)	Wise
Pomeroy	Smith (NJ)	Wolf
Porter	Smith (OR)	Woolsey
Poshard	Smith (TX)	Wyden
Price (NC)	Snowe	Wynn
Pryce (OH)	Solomon	Yates
Quinn	Spence	Young (AK)
Rahall	Spratt	Young (FL)
Ramstad	Stark	Zeliff
Rangel	Stearns	Zimmer
Ravenel	Stenholm	

NOT VOTING—12

Dreier	Henry	Markey
Ford (MI)	Hunter	Pickle
Ford (TN)	Lambert	Quillen
Gingrich	Manton	Sharp

□ 1247

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PICKETT). The Clerk will report the next amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 3, strike lines 1 through 5 and insert the following:

"(B) the project refers the individual seeking services to another provider in the project, or to another project in the geographic area involved, as the case may be, that will provide such information.

The SPEAKER pro tempore. The question is on the amendment.

Mr. BLILEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 259, nays 157, not voting 14, as follows:

[Roll No. 104]

YEAS—259

Abercrombie	Gilman	Nadler
Ackerman	Glickman	Natcher
Andrews (ME)	Gonzalez	Neal (MA)
Andrews (NJ)	Gordon	Neal (NC)
Andrews (TX)	Grandy	Obey
Bacchus (FL)	Green	Olver
Baesler	Greenwood	Owens
Barlow	Gunderson	Pallone
Barrett (WI)	Gutierrez	Parker
Becerra	Hamburg	Pastor
Beilenson	Hamilton	Payne (NJ)
Berman	Harman	Payne (VA)
Bevill	Hastings	Pelosi
Bilbray	Hefner	Peterson (FL)
Bishop	Hilliard	Pickett
Blackwell	Hinchey	Pomeroy
Boehlert	Hoagland	Porter
Bonilla	Hobson	Price (NC)
Bonior	Hochbrueckner	Pryce (OH)
Boucher	Hoke	Ramstad
Brewster	Horn	Rangel
Brooks	Houghton	Reed
Brown (CA)	Hoyer	Reynolds
Brown (FL)	Huffington	Richardson
Brown (OH)	Hughes	Ridge
Bryant	Inslee	Rose
Byrne	Jacobs	Rostenkowski
Cantwell	Jefferson	Roukema
Cardin	Johnson (CT)	Rowland
Carr	Johnson (GA)	Roybal-Allard
Castle	Johnson (SD)	Rush
Chapman	Johnson, E. B.	Sabo
Clay	Johnston	Sanders
Clayton	Kaptur	Sawyer
Clement	Kennedy	Schenk
Clinger	Kennelly	Schiff
Clyburn	Kim	Schroeder
Coleman	Kleczka	Schumer
Collins (IL)	Klein	Scott
Collins (MI)	Klug	Serrano
Condit	Kolbe	Shays
Conyers	Kopetski	Shepherd
Cooper	Kreidler	Sisisky
Coppersmith	Lambert	Skaggs
Coyne	Lancaster	Slattery
Cramer	Lantos	Slaughter
Danner	LaRocco	Smith (IA)
Deal	Laughlin	Snowe
DeFazio	Lazio	Stark
DeLauro	Leach	Stokes
Dellums	Lehman	Strickland
Derrick	Levin	Studds
Deutsch	Levy	Swett
Dicks	Lewis (GA)	Swift
Dingell	Lloyd	Synar
Dixon	Long	Tanner
Dooley	Lowey	Thomas (CA)
Dunn	Machtley	Thornton
Durbin	Maloney	Thurman
Edwards (CA)	Mann	Torkildsen
Edwards (TX)	Margolies-Mezvinsky	Torres
Engel		Torricelli
English (AZ)	Martinez	Towns
English (OK)	Matsui	Traficant
Eshoo	McCloskey	Tucker
Evans	McCurdy	Unsoeld
Fawell	McDermott	Upton
Fazio	McHale	Valentine
Fields (LA)	McHugh	Velazquez
Filner	McInnis	Vento
Fingerhut	McKinney	Visclosky
Flake	McMillan	Washington
Foglietta	Meehan	Waters
Ford (MI)	Meek	Watt
Fowler	Menendez	Waxman
Frank (MA)	Meyers	Wheat
Franks (CT)	Mfume	Whitten
Franks (NJ)	Miller (FL)	Williams
Frost	Mineta	Wilson
Furse	Minge	Wise
Gallo	Mink	Woolsey
Gejdenson	Moakley	Wyden
Gekas	Molinari	Wynn
Gephardt	Montgomery	Yates
Geren	Moran	Zeliff
Gibbons	Morella	Zimmer
Gilchrest	Murphy	

NAYS—157

Allard	Armey	Baker (LA)
Applegate	Bachus (AL)	Ballenger
Archer	Baker (CA)	Barrett (NE)
Bartlett	Hayes	Petri
Barton	Hefley	Pombo
Bateman	Herger	Poshard
Bentley	Hoekstra	Quinn
Bereuter	Hutchinson	Rahall
Bilirakis	Hutto	Ravenel
Bliley	Hyde	Regula
Blute	Inglis	Roberts
Boehner	Inhofe	Roemer
Borski	Istook	Rogers
Browder	Johnson, Sam	Rohrabacher
Bunning	Kanjorski	Ros-Lehtinen
Burton	Kasich	Roth
Buyer	Kildee	Royce
Callahan	King	Sangmeister
Calvert	Kingston	Santorum
Camp	Klink	Sarpalius
Canady	Knollenberg	Saxton
Coble	Kyl	Schaefer
Collins (GA)	LaFalce	Sensenbrenner
Combest	Lewis (CA)	Shaw
Costello	Lewis (FL)	Shuster
Cox	Lightfoot	Skeen
Crane	Linder	Skelton
Crapo	Lipinski	Smith (MI)
Cunningham	Livingston	Smith (NJ)
de la Garza	Manton	Smith (OR)
DeLay	Manzullo	Smith (TX)
Diaz-Balart	Mazzoli	Solomon
Dickey	McCandless	Spence
Doolittle	McCollum	Stearns
Dornan	McCrery	Stenholm
Duncan	McDade	Stump
Emerson	McKeon	Stupak
Everett	McNulty	Sundquist
Ewing	Mica	Tauzin
Fields (TX)	Michel	Taylor (MS)
Fish	Mollohan	Taylor (NC)
Gallegly	Moorhead	Tejeda
Gillmor	Murtha	Thomas (WY)
Gingrich	Myers	Volkmer
Goodlatte	Nussle	Vucanovich
Goodling	Oberstar	Walker
Goss	Ortiz	Walsh
Grams	Orton	Weldon
Hall (OH)	Oxley	Wolf
Hall (TX)	Packard	Young (AK)
Hancock	Paxon	Young (FL)
Hansen	Penny	
Hastert	Peterson (MN)	

NOT VOTING—14

Barcia	Holden	Quillen
Darden	Hunter	Sharp
Dreier	Markey	Spratt
Ford (TN)	Miller (CA)	Talent
Henry	Pickle	

□ 1256

Mr. MCCOLLUM changed his vote from "yea" to "nay."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PICKETT). The Clerk will report the final amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 4, after line 3, insert the following subsection:

(c) INFORMATION ON CONDOMS.—Section 1001 of the Public Health Service Act, as amended by subsection (a) of this section, is amended by inserting after subsection (b) the following subsection:

"(c) The Secretary may not make an award of a grant or contract under this section unless the applicant for the award agrees that the family planning project involved will—

"(1) distribute only those condoms meeting current requirements for quality control and labeling, and any subsequently developed standards, established by the Food and Drug Administration for the prevention of pregnancy and the prevention of the transmission of sexually transmitted diseases; and

"(2) advise individuals of the benefits of the proper use of condoms, of the extent of risk that still exist with condom usage, and

of the fact that condoms currently available do not completely eliminate the risk of pregnancy or the transmission of sexually transmitted diseases.".

Page 2, strike lines 9 and 10 and insert the following:

(1) by redesignating subsections (b) through (d) as subsections (d) through (f), respectively; and

Page 4, line 4, strike "(c)" and insert "(d)".

Page 4, line 5, strike "1001(e)" and insert "1001(f)".

Page 4, line 8, striking "(e)" and insert "(f)".

Mr. BLILEY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BLILEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 13, as follows:

[Roll No. 105]

AYES—417

Abercrombie	Bunning	Dicks
Ackerman	Burton	Dingell
Allard	Buyer	Dixon
Andrews (ME)	Byrne	Dooley
Andrews (NJ)	Callahan	Doolittle
Andrews (TX)	Calvert	Dornan
Applegate	Camp	Duncan
Archer	Canady	Dunn
Armey	Cantwell	Durbin
Bacchus (FL)	Cardin	Edwards (TX)
Bachus (AL)	Carr	Emerson
Baesler	Castle	Engel
Baker (CA)	Chapman	English (AZ)
Baker (LA)	Clay	English (OK)
Ballenger	Clayton	Eshoo
Barcia	Clement	Evans
Barlow	Clinger	Everett
Barrett (NE)	Clyburn	Ewing
Barrett (WI)	Coble	Fawell
Bartlett	Coleman	Fazio
Barton	Collins (GA)	Fields (LA)
Bateman	Collins (IL)	Fields (TX)
Becerra	Collins (MI)	Filner
Beilenson	Combest	Fingerhut
Bentley	Condit	Fish
Bereuter	Conyers	Flake
Berman	Cooper	Foglietta
Bevill	Coppersmith	Ford (MI)
Bilbray	Costello	Fowler
Bilirakis	Cox	Frank (MA)
Bishop	Coyne	Franks (CT)
Blackwell	Cramer	Franks (NJ)
Bliley	Crane	Frost
Blute	Crapo	Furse
Boehlert	Cunningham	Gallegly
Boehner	Danner	Gallo
Bonilla	Darden	Gejdenson
Bonior	de la Garza	Gekas
Borski	Deal	Gephardt
Boucher	DeFazio	Geren
Brewster	DeLauro	Gibbons
Brooks	DeLay	Gilchrest
Browder	Dellums	Gillmor
Brown (CA)	Derrick	Gilman
Brown (FL)	Deutsch	Gingrich
Brown (OH)	Diaz-Balart	Glickman
Bryant	Dickey	Gonzalez
Goodlatte	Margolies-Mezvinsky	Roybal-Allard
Goodling	Markey	Royce
Gordon	Martinez	Rush
Goss	Matsui	Sabo
Grams	Mazzoli	Sanders
Grandy	McCandless	Sangmeister
Green	McCloskey	Santorum
Greenwood	McCollum	Sarpalius
Gunderson	McCrery	Sawyer
Gutierrez	McCurdy	Saxton
Hall (TX)	McDade	Schaefer
Hamburg	McDermott	Schenk
Hamilton	McHale	Schiff
Hancock	McHugh	Schroeder
Hansen	McInnis	Schumer
Harman	McKeon	Scott
Hastert	McKinney	Sensenbrenner
Hastings	McMillan	Serrano
Hayes	McNulty	Shaw
Hefley	Meehan	Shays
Hefner	Meek	Shuster
Herger	Menendez	Sisisky
Hilliard	Meyers	Skaggs
Hinchey	Mfume	Skeen
Hoagland	Mica	Skelton
Hobson	Michel	Slattery
Hochbrueckner	Miller (CA)	Slaughter
Hoekstra	Miller (FL)	Smith (IA)
Hoke	Mineta	Smith (MI)
Holden	Minge	Smith (NJ)
Horn	Mink	Smith (OR)
Houghton	Moakley	Smith (TX)
Hoyer	Molinari	Snowe
Huffington	Mollohan	Solomon
Hughes	Montgomery	Spence
Hutchinson	Moorhead	Spratt
Hutto	Moran	Stark
Hyde	Morella	Stearns
Inglis	Murphy	Stenholm
Inhofe	Murtha	Stokes
Inslee	Myers	Strickland
Istook	Nadler	Studds
Jacobs	Natcher	Stump
Jefferson	Neal (MA)	Stupak
Johnson (CT)	Neal (NC)	Sundquist
Johnson (GA)	Nussle	Swett
Johnson (SD)	Oberstar	Swift
Johnson, E. B.	Obey	Synar
Johnson, Sam	Olver	Tanner
Johnston	Ortiz	Tauzin
Kanjorski	Orton	Taylor (MS)
Kasich	Owens	Taylor (NC)
Kennedy	Oxley	Tejeda
Kennelly	Packard	Thomas (CA)
Kildee	Pallone	Thomas (WY)
Kim	Parker	Thornton
King	Pastor	Thurman
Kingston	Paxon	Torkildsen
Kleczka	Payne (NJ)	Torres
Klein	Payne (VA)	Torricelli
Klink	Pelosi	Towns
Klug	Penny	Traficant
Knollenberg	Peterson (FL)	Tucker
Kolbe	Peterson (MN)	Unsoeld
Kopetski	Petri	Upton
Kreidler	Pickett	Valentine
Kyl	Pombo	Velazquez
LaFalce	Pomeroy	Vento
Lambert	Porter	Visclosky
Lancaster	Poshard	Volkmer
Lantos	Price (NC)	Vucanovich
Laughlin	Pryce (OH)	Walker
Lazio	Quinn	Walsh
Leach	Rahall	Washington
Lehman	Ramstad	Waters
Levin	Rangel	Watt
Levy	Ravenel	Waxman
Lewis (CA)	Reed	Weldon
Lewis (FL)	Regula	Wheat
Lewis (GA)	Reynolds	Whitten
Lightfoot	Richardson	Williams
Linder	Ridge	Wilson
Lipinski	Roberts	Wise
Livingston	Roemer	Wolf
Lloyd	Rogers	Woolsey
Long	Rohrabacher	Wyden
Lowey	Ros-Lehtinen	Wynn
Machtley	Rose	Yates
Maloney	Rostenkowski	Young (AK)
Mann	Roth	Young (FL)
Manton	Roukema	Zeliff
Manzullo	Rowland	Zimmer

NOT VOTING—13

Dreier	Hunter	Sharp
Edwards (CA)	Kaptur	Shepherd
Ford (TN)	LaRocco	Talent
Hall (OH)	Pickle	
Henry	Quillen	

□ 1304

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PICKETT). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BLILEY. In its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

Mr. BLILEY moves to recommit the bill, H.R. 670, to the Committee on Energy and Commerce, with instructions to report back the same to the House forthwith with the following amendment:

Page 3, strike line 12 and all that follows through page 4, line 3, and insert the following:

(b) PARENTAL NOTIFICATION REGARDING ABORTION.—Section 1001 of the Public Health Service Act, as amended by subsection (a) of this section, is amended by inserting after subsection (b) the following subsection:

"(c)(1) The Secretary may not make an award of a grant or contract under this section unless the entity applying for the award agrees that the entity will not perform an abortion on an unemancipated minor under the age of 18, and will not permit the facilities of the entity to be used to perform any abortion on such a minor, without regard to whether the abortion is to be performed with a grant or contract provided by the Secretary, unless there has been compliance with one of the following:

"(A)(i) A written notification is provided to a parent or legal guardian of the minor stating that an abortion has been requested for the minor, and 48 hours elapses after the notification is so provided; and

"(ii) the notification is either (I) delivered personally by the attending physician or the physician's agent, in which case the 48 hours is measured from the time of so delivering the notification, or (II) the notification is provided through certified mail, with return receipt requested, and with restricted delivery addressed to a parent or legal guardian at the dwelling house or usual place of abode of the parent or guardian, in which case the 48 hours is measured from 12 o'clock noon on the second day of regular mail delivery that follows the day on which the notification is posted.

"(B) The attending physician certifies in the minor's medical record that she is suffering from a physical disorder or disease making the abortion necessary to prevent her death, and that there is insufficient time to provide a notification in accordance with subparagraph (A).

"(C)(i) The minor declares that the pregnancy resulted from incest with a parent or legal guardian of the minor, or that she has been subjected to or is at risk of sexual

abuse, child abuse, or child neglect by a parent or legal guardian of the minor; and

"(ii) the attending physician notifies, in writing, the authorities specified by the law of the State involved to receive reports or allegations regarding the applicable offense specified in clause (i).

"(D) The entity complies with a State or local law that—

"(i) is in effect in the State or locality, respectively;

"(ii) provides the requirement that a parent or legal guardian be notified before an abortion is performed on an unemancipated minor under the age of 18 (or a requirement that both parents be so notified), or provides the requirement that a parent or legal guardian give consent before an abortion is performed on such a minor (or a requirement that both parents give such consent); and

"(iii) either contains no provision waiving a requirement described in clause (ii), or provides a waiver of the requirement only for one or more of the following circumstances:

"(I) A court determines that the requirement should be waived.

"(II) A physician determines that the minor is suffering from a physical disorder or disease that makes the abortion necessary to prevent her death, and that there is insufficient time to comply with the requirement.

"(III) The pregnancy resulted from incest.

"(IV) The minor has been subjected to or is at risk of sexual abuse by a parent or legal guardian.

"(V) The minor has been subjected to or is at risk of child abuse by a parent or legal guardian.

"(VI) The minor has been subjected to or is at risk of child neglect by a parent or legal guardian.

"(2) For purposes of this subsection:

"(A) The term 'attending physician' means the physician with the principal responsibility for making the decision to perform the abortion involved.

"(B) Each of the following terms has the meaning given the term under the law of the State involved: (i) 'Child abuse'. (ii) 'Child neglect'. (iii) 'Incest'. (iv) 'Legal guardian' (with respect to a child). (v) 'Sexual abuse'. (vi) 'Unemancipated minor'.

"(C) Each of the following terms has the meaning given the term under rule 4 of the Federal rules of civil procedure for the United States district courts: (i) 'Dwelling house'. (ii) 'Usual place of abode'.

"(D) The term 'State involved' means the State of the location of the facility from which an abortion for the minor involved is sought.".

Page 2, strike lines 9 and 10 and insert the following:

(1) by redesignating subsections (b) through (d) as subsections (d) through (f), respectively; and

Page 4, line 5, strike "1001(e)" and insert "1001(f)".

Page 4, line 8, strike "(e)" and insert "(f)".

Mr. BLILEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. The gentleman from Virginia [Mr. BLILEY] is recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume. Let me describe the details of this amendment. It states that any facility that performs abortions and is affiliated with an entity that receives title X grants or contracts cannot perform an abortion on an unemancipated minor under age 18, unless written notice is provided to a parent or guardian and 48 hours elapsed after the notification is provided. Let me repeat—the notification provision only affects title X-affiliated abortion facilities. It is a condition for receiving Federal money. It does not preempt State law and does not affect facilities which are not affiliated with a clinic receiving Federal funds.

There are three exceptions to this requirement.

First, parental notification is not required if a physician certifies that a medical emergency exists making the abortion necessary to save the minor's life.

Second, parental notification is not required if the pregnancy is the result of incest with a parent or legal guardian, or the minor has been subject to sexual abuse, child abuse, or neglect. In these cases, the attending physician must provide written notification to the appropriate State or local authorities before the abortion is performed.

Third, parental notification is not required if the provider is in compliance with State law requiring parental notification or consent. And these State laws can have exceptions for judicial bypass, incest, medical emergencies that threaten the life of the mother, and sexual or child abuse of the minor.

I want to emphasize again that this amendment does not preempt State law. It does not require a State to pass a new law nor to amend current law. It simply effects a provider's ability to receive title X funds. And the requirement is for parental notification and not consent. If a title X-affiliated provider does not want to follow the notification requirements, the title X clinic can simply refuse to accept the Federal funds.

And I would like to point out that most Americans support the notion of parental notification. A New York Times poll revealed that 83 percent of Americans support mandatory notification of at least one parent before a minor is allowed to have an abortion.

At the hearing we had in 1991, two witnesses testified before us about the tragic consequences of a young teenager having an abortion without her parents' knowledge. At this hearing, a young woman recounted her painful story. When she was a high school student, she became pregnant, and her teacher advised her to get an abortion. She did not tell her mother about her pregnancy, and the only advice she received from others was to terminate her pregnancy. She testified that she regrets having had the abortion and she regrets not telling her mother because of the support she could have received.

Mr. Speaker, my amendment will help to avoid more stories like these in the future. I urge my colleagues to vote for the motion to recommit.

Mr. Speaker, I would point out that just recently the President's own daughter was sick at school, and the nurse wanted to give her an aspirin. And because there was not a letter there from one of the parents, from the President or Mrs. Clinton, they had to call the President to get permission to give Chelsea an aspirin.

□ 1310

Now here we have an invasive procedure on a minor and we want to say no notification is required. It does not seem to make sense.

Finally, I ask the Members, as we consider this amendment, to consider it as parents. Would we want to know if it was our child, God forbid?

Mr. Speaker, may I ask how much time I have remaining?

The SPEAKER pro tempore (Mr. PICKETT). The gentleman from Virginia [Mr. BLILEY) has 30 seconds remaining.

Mr. BLILEY. Mr. Speaker, I yield 30 seconds to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank the gentleman from Virginia very much for yielding 30 seconds to me.

I would like to indicate, also, to my colleagues, how ridiculous is it in America when a person needs parental consent to get an aspirin, but does not need parental consent for their daughter to have an abortion?

I ask the Members on this side to realize that this amendment should pass overwhelmingly on the House floor. I ask and urge all the Members to vote for it.

Mr. WAXMAN. Mr. Speaker, I yield myself 1 minute. I rise in opposition to the Bliley amendment. The issue before us is not whether we are going to have parental notification or consent required before a teenager has an abortion. The issue is whether, for those clinics that get title X funds that have abortion services, such as a hospital, it is going to be required by one law, the Bliley amendment, which will supersede the State law on the subject.

States have addressed this question. It is appropriate for States to address it because there are complicated matters to be adjusted between privacy rights, parental rights, public health, and appropriate medical care. Over 40 States have taken action. This amendment would supersede those State laws.

Mr. Speaker, the bill requires that every grantee must certify that they are in compliance with State laws. This Bliley amendment is one that I think is stricter than any State law in

force in the Nation. There is no judicial bypass under any circumstance, no emergency exception unless the girl is actually going to die, no exception for incest with anyone other than the parent, not an uncle or a mother's boyfriend.

Mr. Speaker, I urge a "no" vote on this amendment.

Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Mr. Speaker, I thank the gentleman for yielding time to me.

I too, Mr. Speaker, rise to oppose the motion for recommittal. I support parental notification. Parents should be notified, but that is not the point that we are discussing here, as the chairman has already made clear. States have taken a number of different approaches, and I believe that the States should be allowed to work out this very difficult problem, as has my own State of Georgia, which provides for parental notification. It makes an exception if the attendant physician makes the determination that there is a medical emergency.

I do not want that taken away from my State of Georgia. The proposal of the gentleman from Virginia [Mr. BLILEY] would do exactly that. For that reason I oppose the gentleman's proposal, which would supersede the State law for my entire State.

What we do in Georgia works very well. I do not want to see it changed.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I support parental notification. I oppose the Bliley amendment. The Bliley amendment is so narrowly drawn as to disqualify 21 State laws that provide for parental notification. Second, Mr. BLILEY attaches his amendment to the crime of incest, which has already been abolished in six States. He is not mindful of the fact that these States now have a new crime, which affects the situation.

I believe it is an error of major proportion for the opponents of abortion to oppose or weaken efforts to promote family planning. When the pro-life forces weaken family planning efforts in our Nation, their strategy only adds to the excessive number of abortions.

Save this important issue of parental notification for an amendment drafted with precision in the Freedom of Choice Act, where it belongs. Vote no on the motion to recommit.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to this motion to recommit. It is a very dangerous one, because it takes away States rights, because no State, with the exception of three, would have their laws not be superseded. As a matter of fact, there are exceptions only for the imminent danger of the life of the mother. No other medical conditions are included, like AIDS or diabetes.

Also, the definition of rape and incest contains no exceptions, unless the incest is committed by the father or the guardian, not a brother or an uncle. This is very dangerous, so I certainly ask this body to oppose this motion to recommit. Let the States decide.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, those who want to vote for parental notification, if voting for this bill, will vote to require every clinic to abide by and certify that they are abiding by the parental notification requirements in State law. The Bliley amendment would supersede most State laws. This is a matter that should be decided by the States.

If we are going to develop a policy on this issue, it ought to be more thoughtful than trying to attach it to a grant program and cripple a grant program that is set up for family planning services itself. I urge a "no" vote on this motion to recommit and support for the legislation.

Ms. HARMAN. Mr. Speaker, I rise in strong support of H.R. 670, which restores, after 8 long years, the family planning activities of title X of the Public Health Services Act and codifies President Clinton's reversal of the odious gag rule.

As a mother of four, I know personally the value of family planning and pregnancy counseling. I made the decision to bear my children—in loving consultation with my spouse, and fully aware of my options concerning adoption, foster care, and pregnancy termination. No court or government told me what to do with my body, and so it should be—and must be—for all women in America.

Two of my four children are daughters, both still minors. As their mother, I am deeply committed to making certain they use good judgment about any sexual encounters and make certain to avoid health risks and unwanted pregnancies. No question that the best way to reduce abortion is to eliminate unwanted pregnancies.

The harder question is whether my daughters should be required to notify me in the event they choose to terminate a pregnancy. Under recent Supreme Court decisions, they need not notify me about preventing pregnancies through contraception, or seeking services related to general or reproductive health. This is a tough issue for mothers and many others, and a small number of States require parental notification or consent. California does not, and California's law, in many respects, is a model for the Nation.

I am content to leave this difficult issue of notification to the States, and hence support the language in the bill. I strongly oppose the Bliley amendment which would impose a new Federal mandate and regulations to stifle the States. This is a heavy-handed approach to a sensitive and private issue and I urge my colleagues to reject it.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appear to have it.

RECORDED VOTE

Mr. BLILEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—ayes 179, noes 243, not voting 8, as follows:

[Roll No. 106]

AYES—179

Allard	Gilchrest	Michel
Applegate	Gillmor	Mollohan
Archer	Gingrich	Montgomery
Armey	Goodlatte	Moorhead
Bachus (AL)	Goodling	Murphy
Baker (CA)	Goss	Myers
Baker (LA)	Grams	Nussle
Ballenger	Grandy	Oberstar
Barcia	Gunderson	Ortiz
Barrett (NE)	Hall (OH)	Orton
Bartlett	Hall (TX)	Oxley
Barton	Hamilton	Packard
Bateman	Hancock	Parker
Bentley	Hansen	Paxon
Bereuter	Hastert	Penny
Bilirakis	Hayes	Peterson (MN)
Bliley	Hefley	Petri
Blute	Herger	Pombo
Boehner	Hoekstra	Poshard
Bonilla	Holden	Quinn
Bunning	Hunter	Rahall
Burton	Hutchinson	Roberts
Buyer	Hutto	Roemer
Callahan	Hyde	Rogers
Calvert	Inglis	Rohrabacher
Camp	Inhofe	Ros-Lehtinen
Canady	Istook	Roth
Castle	Johnson, Sam	Roukema
Clinger	Kanjorski	Royce
Coble	Kasich	Sangmeister
Collins (GA)	Kildee	Santorum
Combest	Kim	Sarpalius
Costello	King	Saxton
Cox	Kingston	Schaefer
Crane	Klink	Sensenbrenner
Crapo	Knollenberg	Shaw
Cunningham	Kyl	Shuster
de la Garza	LaFalce	Skelton
DeLay	Lazio	Smith (MI)
Diaz-Balart	Levy	Smith (NJ)
Dickey	Lewis (CA)	Smith (OR)
Doolittle	Lewis (FL)	Smith (TX)
Dornan	Lightfoot	Solomon
Duncan	Linder	Spence
Dunn	Lipinski	Stearns
Emerson	Livingston	Stenholm
English (OK)	Manton	Stump
Everett	Manzullo	Sundquist
Ewing	Mazzoli	Talent
Fawell	McCandless	Tauzin
Fields (TX)	McCollum	Taylor (MS)
Fish	McCrery	Taylor (NC)
Flake	McDade	Tejeda
Franks (CT)	McHugh	Thomas (WY)
Franks (NJ)	McKeon	Volkmer
Gallegly	McMillan	Vucanovich
Gallo	McNulty	Walker
Geren	Mica	

Walsh	Wolf	Young (FL)
Weldon	Young (AK)	Zimmer

NOES—243

Abercrombie	Green	Owens
Ackerman	Greenwood	Pallone
Andrews (ME)	Gutierrez	Pastor
Andrews (NJ)	Hamburg	Payne (NJ)
Andrews (TX)	Harman	Payne (VA)
Bacchus (FL)	Hastings	Pelosi
Baesler	Hefner	Peterson (FL)
Barlow	Hilliard	Pickett
Barrett (WI)	Hinchey	Pomeroy
Becerra	Hoagland	Porter
Beilenson	Hobson	Price (NC)
Berman	Hochbrueckner	Pryce (OH)
Bevill	Hoke	Ramstad
Bilbray	Horn	Rangel
Bishop	Houghton	Ravenel
Blackwell	Hoyer	Reed
Boehlert	Huffington	Regula
Bonior	Hughes	Reynolds
Borski	Inslee	Richardson
Boucher	Jacobs	Ridge
Brewster	Jefferson	Rose
Brooks	Johnson (CT)	Rostenkowski
Browder	Johnson (GA)	Rowland
Brown (CA)	Johnson (SD)	Roybal-Allard
Brown (FL)	Johnson, E.B.	Rush
Brown (OH)	Johnston	Sabo
Bryant	Kaptur	Sanders
Byrne	Kennedy	Sawyer
Cantwell	Kennelly	Schenk
Cardin	Kleczka	Schiff
Carr	Klein	Schroeder
Chapman	Klug	Schumer
Clay	Kolbe	Scott
Clayton	Kopetski	Serrano
Clement	Kreidler	Shays
Clyburn	Lambert	Shepherd
Coleman	Lancaster	Sisisky
Collins (IL)	Lantos	Skaggs
Collins (MI)	LaRocco	Skeen
Condit	Laughlin	Slattery
Conyers	Leach	Slaughter
Cooper	Lehman	Smith (IA)
Coppersmith	Levin	Snowe
Coyne	Lewis (GA)	Spratt
Cramer	Lloyd	Stokes
Danner	Long	Strickland
Darden	Lowey	Studds
Deal	Machtley	Stupak
DeFazio	Maloney	Swett
DeLauro	Mann	Swift
Dellums	Margolies-Mezvinsky	Synar
Derrick	Markey	Tanner
Deutsch	Martinez	Thomas (CA)
Dicks	Matsui	Thornton
Dingell	McCloskey	Thurman
Dixon	McCurdy	Torkildsen
Dooley	McDermott	Torres
Durbin	McHale	Torricelli
Edwards (CA)	McInnis	Towns
Edwards (TX)	McKinney	Traficant
Engel	Meehan	Tucker
English (AZ)	Meek	Unsoeld
Eshoo	Menendez	Upton
Evans	Meyers	Valentine
Fazio	Mfume	Velazquez
Fields (LA)	Miller (CA)	Vento
Filner	Miller (FL)	Visclosky
Fingerhut	Mineta	Washington
Foglietta	Minge	Waters
Ford (MI)	Mink	Watt
Fowler	Moakley	Waxman
Frank (MA)	Molinari	Wheat
Frost	Moran	Whitten
Furse	Morella	Williams
Gejdenson	Murtha	Wilson
Gekas	Nadler	Wise
Gephardt	Natcher	Wyden
Gibbons	Neal (MA)	Wynn
Gilman	Neal (NC)	Yates
Glickman	Obey	Zeliff
Gonzalez	Olver	
Gordon		

NOT VOTING—8

Dreier	Pickle	Stark
Ford (TN)	Quillen	Woolsey
Henry	Sharp	

□ 1335

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. Pickle against.

Mr. HOKE changed his vote from "aye" to "no."

Mr. de la GARZA, Mr. KIM, Ms. DUNN, Mr. COSTELLO, and Mr. TAUZIN changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BLILEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 273, noes 149, not voting 8, as follows:

[Roll No. 107]

AYES—273

Abercrombie	Dunn	Johnson (SD)
Ackerman	Durbin	Johnson, E. B.
Andrews (ME)	Edwards (CA)	Johnston
Andrews (NJ)	Edwards (TX)	Kanjorski
Andrews (TX)	Engel	Kaptur
Applegate	English (AZ)	Kennedy
Bacchus (FL)	English (OK)	Kennelly
Baesler	Eshoo	Kleczka
Barlow	Evans	Klein
Barrett (WI)	Fawell	Klug
Becerra	Fazio	Kolbe
Beilenson	Fields (LA)	Kopetski
Bentley	Filner	Kreidler
Bereuter	Fingerhut	Lambert
Berman	Fish	Lancaster
Bevill	Flake	Lantos
Bilbray	Foglietta	LaRocco
Bishop	Ford (MI)	Laughlin
Blackwell	Fowler	Lazio
Boehlert	Frank (MA)	Leach
Bonior	Franks (CT)	Levin
Borski	Franks (NJ)	Lewis (GA)
Boucher	Frost	Lloyd
Brewster	Furse	Long
Brooks	Gallo	Lowey
Browder	Gejdenson	Machtley
Brown (CA)	Gekas	Maloney
Brown (FL)	Gephardt	Mann
Brown (OH)	Geren	Manton
Bryant	Gibbons	Margolies-Mezvinsky
Byrne	Gilchrest	Markey
Cantwell	Gilman	Martinez
Cardin	Glickman	Matsui
Carr	Gonzalez	Mazzoli
Castle	Gordon	McCloskey
Chapman	Green	McCurdy
Clay	Greenwood	McDade
Clayton	Gunderson	McDermott
Clement	Gutierrez	McHale
Clyburn	Hall (TX)	McHugh
Coleman	Hamburg	McInnis
Collins (IL)	Hamilton	McKinney
Collins (MI)	Harman	McMillan
Condit	Hastings	McNulty
Conyers	Hefner	Meehan
Cooper	Hilliard	Meek
Coppersmith	Hinchey	Menendez
Coyne	Hoagland	Meyers
Cramer	Hobson	Mfume
Danner	Hochbrueckner	Miller (CA)
Darden	Hoke	Miller (FL)
Deal	Horn	Mineta
DeFazio	Houghton	Minge
DeLauro	Hoyer	Mink
Dellums	Huffington	Moakley
Derrick	Hughes	Molinari
Deutsch	Inslee	Moran
Dicks	Jacobs	Morella
Dingell	Jefferson	Murtha
Dixon	Johnson (CT)	Nadler
Dooley	Johnson (GA)	Natcher
Neal (MA)	Roybal-Allard	Tanner
Neal (NC)	Rush	Thornton
Obey	Sabo	Thurman
Olver	Sanders	Torkildsen
Owens	Sangmeister	Torricelli
Pallone	Sawyer	Towns
Pastor	Schenk	Traficant
Payne (NJ)	Schiff	Tucker
Payne (VA)	Schroeder	Unsoeld
Pelosi	Schumer	Upton
Penny	Scott	Valentine
Peterson (FL)	Serrano	Velazquez
Pickett	Shays	Vento
Pomeroy	Shepherd	Visclosky
Porter	Sisisky	Washington
Price (NC)	Skaggs	Waters
Pryce (OH)	Skeen	Watt
Ramstad	Slattery	Waxman
Rangel	Slaughter	Wheat
Ravenel	Smith (IA)	Whitten
Reed	Smith (TX)	Williams
Regula	Snowe	Wilson
Reynolds	Spratt	Wise
Richardson	Stark	Woolsey
Ridge	Stokes	Wyden
Roemer	Strickland	Wynn
Rose	Studds	Yates
Rostenkowski	Stupak	Zeliff
Roukema	Swett	Zimmer
Rowland	Swift	
	Synar	

NOES—149

Allard	Grams	Orton
Archer	Grandy	Oxley
Armey	Hall (OH)	Packard
Bachus (AL)	Hancock	Parker
Baker (CA)	Hansen	Paxon
Baker (LA)	Hastert	Peterson (MN)
Ballenger	Hayes	Petri
Barcia	Hefley	Pombo
Barrett (NE)	Herger	Poshard
Bartlett	Hoekstra	Quinn
Barton	Holden	Rahall
Bateman	Hunter	Roberts
Bilirakis	Hutchinson	Rogers
Bliley	Hutto	Rohrabacher
Blute	Hyde	Ros-Lehtinen
Boehner	Inglis	Roth
Bonilla	Inhofe	Royce
Bunning	Istook	Santorum
Burton	Johnson, Sam	Sarpalius
Buyer	Kasich	Saxton
Callahan	Kildee	Schaefer
Calvert	Kim	Sensenbrenner
Camp	King	Shaw
Canady	Kingston	Shuster
Clinger	Klink	Skelton
Coble	Knollenberg	Smith (MI)
Collins (GA)	Kyl	Smith (NJ)
Combest	LaFalce	Smith (OR)
Costello	Levy	Solomon
Cox	Lewis (CA)	Spence
Crane	Lewis (FL)	Stearns
Crapo	Lightfoot	Stenholm
Cunningham	Linder	Stump
de la Garza	Lipinski	Sundquist
DeLay	Livingston	Talent
Diaz-Balart	Manzullo	Tauzin
Dickey	McCandless	Taylor (MS)
Doolittle	McCollum	Taylor (NC)
Dornan	McCrery	Tejeda
Duncan	McKeon	Thomas (CA)
Emerson	Mica	Thomas (WY)
Everett	Michel	Volkmer
Ewing	Mollohan	Vucanovich
Fields (TX)	Montgomery	Walker
Gallegly	Moorhead	Walsh
Gillmor	Murphy	Weldon
Gingrich	Myers	Wolf
Goodlatte	Nussle	Young (AK)
Goodling	Oberstar	Young (FL)
Goss	Ortiz	

NOT VOTING—8

Dreier	Lehman	Sharp
Ford (TN)	Pickle	Torres
Henry	Quillen	

□ 1353

The Clerk announced the following pair:

On this vote:

Mr. Pickle for, with Mr. Quillen against.

Mr. CLINGER and Mr. OBERSTAR changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PICKETT). Without objection, a motion to reconsider is laid on the table.

Mr. BURTON of Indiana. Reserving the right to object, Mr. Speaker, I would just like to say to my friends on the other side of the Chamber that we do not want to call a lot more votes today. I know everybody is anxious to go home, but I hope they will talk to their friends on the Rules Committee and ask for a modicum of fairness for the Republicans in the minority.

I think that it is important that the message be sent clear that we do not want to be obstructionists. All we want is fairness. If you bring a rule to the floor that will allow us even 10 or 15 minutes, you can vote us down, that is fine. We just want our day in court. So I hope the Rules Committee will at least think about this.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I move to reconsider the vote by which the bill was passed.

MOTION OFFERED BY MRS. UNSOELD

Mrs. UNSOELD. Mr. Speaker, I move to lay on the table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Washington [Mrs. UNSOELD] to lay on the table the motion to reconsider offered by the gentleman from California [Mr. WAXMAN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 274, noes 142, not voting 14, as follows:

[Roll No. 108]

AYES—274

Abercrombie	Borski	Conyers
Ackerman	Boucher	Cooper
Andrews (ME)	Brewster	Coppersmith
Andrews (NJ)	Brooks	Coyne
Andrews (TX)	Browder	Cramer
Applegate	Brown (FL)	Danner
Bacchus (FL)	Brown (OH)	Darden
Baesler	Bryant	de la Garza
Barlow	Byrne	Deal
Barrett (WI)	Cantwell	DeFazio
Bateman	Cardin	DeLauro
Becerra	Carr	Dellums
Beilenson	Castle	Derrick
Bentley	Chapman	Deutsch
Bereuter	Clay	Dicks
Bevill	Clayton	Dingell
Bilbray	Clement	Dixon
Bishop	Coleman	Dooley
Blackwell	Collins (IL)	Dunn
Boehlert	Collins (MI)	Durbin
Bonior	Condit	Edwards (CA)
Edwards (TX)	Laughlin	Reed
Engel	Lazio	Reynolds
English (AZ)	Leach	Richardson
English (OK)	Lehman	Ridge
Eshoo	Levin	Roemer
Evans	Lewis (GA)	Rose
Fazio	Lloyd	Rostenkowski
Fields (LA)	Long	Rowland
Filner	Lowey	Roybal-Allard
Fingerhut	Machtley	Rush
Flake	Maloney	Sabo
Foglietta	Mann	Sanders
Ford (MI)	Manton	Sangmeister
Fowler	Margolies-Mezvinsky	Sarpalius
Frank (MA)	Markey	Sawyer
Franks (CT)	Martinez	Schenk
Frost	Matsui	Schiff
Furse	Mazzoli	Schroeder
Gallo	McCloskey	Schumer
Gejdenson	McCurdy	Scott
Gekas	McDade	Serrano
Gephardt	McDermott	Shays
Geren	McHale	Shepherd
Gibbons	McHugh	Sisisky
Gilman	McInnis	Skaggs
Glickman	McKinney	Skelton
Gonzalez	McMillan	Slattery
Gordon	McNulty	Slaughter
Green	Meehan	Smith (IA)
Greenwood	Meek	Snowe
Gutierrez	Menendez	Spratt
Hall (OH)	Mfume	Stark
Hall (TX)	Miller (CA)	Stenholm
Hamburg	Mineta	Stokes
Hamilton	Minge	Strickland
Harman	Mink	Studds
Hastings	Moakley	Stupak
Hayes	Molinari	Swett
Hefner	Mollohan	Swift
Hilliard	Montgomery	Synar
Hinchey	Moran	Tanner
Hoagland	Morella	Tauzin
Hochbrueckner	Murtha	Taylor (MS)
Horn	Nadler	Tejeda
Hoyer	Natcher	Thornton
Huffington	Neal (MA)	Thurman
Hughes	Neal (NC)	Torres
Hutto	Oberstar	Torricelli
Inslee	Obey	Towns
Jacobs	Olver	Traficant
Jefferson	Ortiz	Tucker
Johnson (CT)	Orton	Unsoeld
Johnson (GA)	Owens	Valentine
Johnson (SD)	Pallone	Velazquez
Johnson, E. B.	Parker	Vento
Johnston	Pastor	Visclosky
Kanjorski	Payne (NJ)	Volkmer
Kaptur	Payne (VA)	Waters
Kennedy	Pelosi	Watt
Kennelly	Penny	Waxman
Kildee	Peterson (FL)	Wheat
Kleczka	Peterson (MN)	Whitten
Klein	Pickett	Williams
Kolbe	Pomeroy	Wilson
Kopetski	Porter	Wise
Kreidler	Price (NC)	Woolsey
LaFalce	Rahall	Wyden
Lambert	Ramstad	Wynn
Lancaster	Rangel	Yates
Lantos	Ravenel	Zeliff
LaRocco		

NOES—142

Allard	Clinger	Gilchrest
Archer	Coble	Gillmor
Armey	Collins (GA)	Gingrich
Bachus (AL)	Combest	Goodlatte
Baker (CA)	Costello	Goodling
Baker (LA)	Cox	Goss
Ballenger	Crane	Grams
Barcia	Crapo	Grandy
Barrett (NE)	Cunningham	Gunderson
Bartlett	DeLay	Hancock
Barton	Diaz-Balart	Hansen
Bilirakis	Dickey	Hastert
Bliley	Doolittle	Hefley
Blute	Dornan	Herger
Boehner	Duncan	Hobson
Bonilla	Emerson	Hoekstra
Bunning	Ewing	Hoke
Burton	Fawell	Holden
Buyer	Fields (TX)	Houghton
Callahan	Fish	Hunter
Camp	Franks (NJ)	Hutchinson
Canady	Gallegly	Hyde
Inglis	Miller (FL)	Skeen
Inhofe	Moorhead	Smith (MI)
Istook	Myers	Smith (NJ)
Johnson, Sam	Nussle	Smith (OR)
Kasich	Oxley	Smith (TX)
Kim	Packard	Solomon
King	Paxon	Spence
Kingston	Petri	Stearns
Klink	Pombo	Stump
Klug	Poshard	Sundquist
Knollenberg	Pryce (OH)	Talent
Kyl	Quinn	Taylor (NC)
Levy	Regula	Thomas (CA)
Lewis (CA)	Roberts	Thomas (WY)
Lewis (FL)	Rogers	Torkildsen
Linder	Rohrabacher	Upton
Lipinski	Ros-Lehtinen	Vucanovich
Livingston	Roth	Walker
Manzullo	Roukema	Walsh
McCandless	Royce	Weldon
McCollum	Santorum	Wolf
McCrery	Saxton	Young (AK)
McKeon	Schaefer	Young (FL)
Meyers	Sensenbrenner	Zimmer
Mica	Shaw	
Michel	Shuster	

NOT VOTING—14

Berman	Everett	Pickle
Brown (CA)	Ford (TN)	Quillen
Calvert	Henry	Sharp
Clyburn	Lightfoot	Washington
Dreier	Murphy	

□ 1414

Mr. KREIDLER and Mr. RIDGE changed their vote from "no" to "aye."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business for rollcall vote No. 107. Had I been present on the House floor I would have cast my vote as follows:

Roll No. 107, "aye" on final passage of H.R. 670, the Family Planning Amendments Act of 1993.

PERSONAL EXPLANATION

Ms. WOOLSEY. Mr. Speaker, I was unavoidably detained during rollcall vote No. 106. Had I been present, I would have voted, "no" on the motion to recommit.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material, on H.R. 670, the bill just passed.

The SPEAKER pro tempore (Mr. PICKETT). Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 670, FAMILY PLANNING AMENDMENTS ACT OF 1993

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that, in the engrossment of H.R. 670, the Clerk of the

House be authorized to correct section numbers, cross-references, punctuation, and indentation, and to make other technical and conforming changes necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

EDUCATION AND SHARING DAY, USA

Mr. WYNN. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 150) designating April 2, 1993, as "Education and Sharing Day, USA," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I do not object, and we would like to inform the House that the minority has no objection to this legislation. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 150

Whereas the Congress recognizes that ethical teachings and values have played a prominent role in the foundation of civilization and in the history of our great Nation;

Whereas President William J. Clinton has indicated that ethical considerations will inform all of the decisions of his Administration;

Whereas ethical teachings and values have formed the cornerstone of society since the dawn of civilization and found expression in the Seven Noahide Laws;

Whereas sharing and education represent two pillars of these Laws and of ethical conduct;

Whereas Rabbi Menachem Mendel Schneerson, the leader of the Lubavitch movement, is revered worldwide for the contributions he has made to education and sharing;

Whereas the 2,000 educational, social, and rehabilitative institutions administered by Lubavitch advance these ideals for the millions of people whom they serve each year;

Whereas Rabbi Menachem Mendel Schneerson has interpreted the miraculous events of our times, the increasing vitality of these ideals for the furtherance of human understanding and betterment;

Whereas the extraordinary life and work of Rabbi Menachem Mendel Schneerson have long been acknowledged by the Congress through the enactment of Joint Resolutions designating his birthday in each of the last 15 years as "Education Day, U.S.A.";

Whereas the Lubavicher Rebbe's 91st birthday falls on April 2, 1993;

Whereas in tribute to this esteemed spiritual leader, the Lubavicher Rebbe's birthday will be designated as "Education and Sharing Day, U.S.A."; and

Whereas such designation will signal a renewal of our Nation's commitment to greater acts of charity, to an enriched emphasis on education, and to the furtherance of ethical teachings and values in the affairs of government and in the lives of our citizens: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 2, 1993, the birthday, and the culmination of the celebration of the 90th birthday year, of Rabbi Menachem Mendel Schneerson, leader of the worldwide Lubavitch movement, is designated as "Education and Sharing Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and actitivties.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WYNN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 150.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 64. Concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1994, 1995, 1996, 1997, and 1998.

The message also announced that the Senate insists upon its amendment to the resolution (H. Con. Res. 64) concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1994, 1995, 1996, 1997, and 1998, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SASSER, Mr. HOLLINGS, Mr. JOHNSTON, Mr. DOMENICI, and Mr. GRASSLEY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 433. An act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes.

The message also announced that pursuant to Public Law 96–114, as amended, the Chair announces, on behalf of the majority leader, the appointment of Mr. Ralph Everett of Virginia, to the Congressional Award Board.

The message also announced that pursuant to Public Law 94–118, the Chair, on behalf of the President pro tempore, appoints Mr. MURKOWSKI, to the Japan-United States Friendship Commission.

APPOINTMENT OF CONFEREES ON HOUSE CONCURRENT RESOLUTION 64, CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1994

Mr. SABO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 64) setting forth the congressional budget for the U.S. Government for the fiscal years 1994, 1995, 1996, 1997, and 1998, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I would just like to say to my good friend, the gentleman from Minnesota [Mr. SABO], the chairman of the Committee on the Budget, that we have had a series of votes today protesting what we consider to be mistreatment by the Committee on Rules. Mr. Speaker, I will not object to this, but I hope that the gentleman, as one of the leaders of his party, would implore the Committee on Rules to allow us to bring some amendments to the floor. They do not have to give us an hour, but just 5 minutes on each side, so we can at least let the American people know how we feel on certain issues. If the gentleman would do that, I would certainly appreciate it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. LEWIS of Georgia). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. KASICH

Mr. KASICH. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. KASICH moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to House Concurrent Resolution 64 be instructed to agree to the highest level of deficit reduction, the lowest levels of budget outlays, and the lowest level of revenues within the scope of the conference without resorting to higher taxes on Social Security beneficiaries.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. KASICH] will be recognized for 30 minutes, and the gen-

tleman from Minnesota [Mr. SABO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

□ 1420

Mr. KASICH. Mr. Speaker, I yield myself 2 minutes.

I do not want to really get into a rhetorical battle here myself. I am sure we are going to have a lot of rhetoric. I really want to keep it simple so Members understand what we are trying to do.

This motion to instruct conferees is very basic. What we are saying is that we want the tax that is levied under the Clinton plan to tax senior citizens to be eliminated and to be replaced with spending cuts.

In a nutshell, when Members come to the floor to cast a vote on a motion to instruct conferees, if they are in favor of the Clinton plan as presently constituted that levies a tax on our senior citizens, then they have to vote against the motion to instruct. If they think we ought to cut spending first and tax later, then their vote in favor of the motion to instruct should be "yes."

In a nutshell, this is the first time the House has had an ability, the full House has had an ability to vote on an amendment that says that we should cut spending first, tax people second or, under our feeling, not tax them at all.

But if my colleagues are for less levels of taxation in the Clinton plan, if they think that the senior citizens should not be paying those taxes as levied under the Clinton plan, then they want to vote with the motion to instruct conferees to cut spending first and to eliminate the taxes on senior citizens.

Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

I am not going to oppose the resolution. Like all motions to instruct, there are motions to instruct to varying degrees. We can comply with them.

I would tell the gentleman from Ohio that there are certain contradictions in the resolution in terms of maximizing deficit reduction, adopting lowest levels of budget outlay and lowest levels of revenues.

Frankly, I intend to pursue aggressively the House budget resolution. We do have the lowest level of budget outlays of the two budgets. We do have the lowest level of revenues of the two budgets, and we intend to pursue that.

Frankly, the Senate has a somewhat higher level of deficit reduction because they have more revenues than we do. And frankly, we will be concentrating on defending the House position of lower revenues and lower outlays in comparison to the Senate budget resolution.

We will aggressively pursue that, Mr. Speaker, but let me speak a moment to the question of Social Security taxation, because clearly that will be a subject of controversy as we go through reconciliation and writing of the tax bills.

I think it is time that we speak honestly to a very fundamental issue we face in this country. Let me say, very bluntly, that I understand no justification why an elderly couple with income of $40,000 to $50,000 should pay significantly less income taxes than a working couple with similar income. And that working couple, in addition to paying significantly higher income taxes, today is also paying a significant payroll tax, including Medicare taxes, which a retired couple is not paying.

The difference is dramatic, and I make no apologies for support of that position.

I started in politics many years ago. When I started, if one spoke of elderly and poor, they were virtually synonymous. In 1993, that is no longer the case, no longer the case.

There are today, however, still millions of elderly, particularly elderly widows, who are poor or very near poor or living marginally. I, for one, have always opposed limiting their Social Security COLA's because I thought that was unfair and changed their place in life.

But the stereotype that we had years ago, when I first went to office, of elderly and poor being synonymous is no longer the case. We have to learn, if we are going to deal with our deficit, equity within the Tax Code between retirees and working people, when we come to health care reform, we also need to be able to deal with that dissension. And when we come to the question of whether we change the Tax Code, as it relates to the elderly, we are fundamentally facing the equity between couples who have retirement income and couples who are working.

Even with the changes, because of other provisions of the Tax Code, the working couple will still be paying significantly more in taxes. It would simply provide some greater equity than what occurs in the Tax Code today.

I make no apologies for it. I think what is proposed by the President is fair. I think what is assumed in our budget resolution is fair, and I think what this Congress will eventually do is fair.

I must say to my friends on the other side, I think they fundamentally agree with that. Unfortunately, one of the things we could not agree to was an amendment by the gentleman from North Carolina [Mr. MCMILLAN] to vary the premium for part B of Medicare for incomes over $100,000. Our assumption is that that will be dealt with in health care reform.

We thought there was equity in that proposal. And frankly, what we are suggesting in the Tax Code is relative equity between working and retired couples and working and retired singles.

I, frankly, for one, make no apologies for it. I think it is time that we deal with the issue directly and honestly. But as it relates to the thrust of the instructions, I will not oppose. Some we will be able to comply with; some we cannot.

Mr. Speaker, I reserve the balance of my time.

Mr. KASICH. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I basically disagree. I do not think that the President's tax proposal is fair.

I rise in support of the motion to instruct. Unfortunately, this motion is the only way that the Members of this body can be given an opportunity to cast a vote directly on the most unfair provision in the entire Clinton proposal—the increase in taxes on Social Security recipients.

When the budget was considered in this body last week, we were not given an opportunity to vote on the Social Security tax. Our hands were tied. The Budget was considered under a gag rule which prevented us from considering any amendments of this nature.

But this motion gives each of us an opportunity to vote and speak out for basic fairness for Social Security recipients.

I do not like the President's tax package. I don't believe raising taxes is the answer. I think the energy tax is bad policy—counterproductive policy. The waterway user fee increase is definitely bad policy.

But one of the tax proposals in the President's proposal stands out above all the others when it comes to unfairness and dishonesty. And that is the President's proposal to raise from 50 to 85 percent, the portion of Social Security benefits that is taxable.

We are not talking about wealthy people here. We are talking about individuals with incomes over $25,000—couples over $32,000.

We are talking about people who managed to scrimp and save and put enough money away for his or her retirement years to have a modest income. It is a retirement planning penalty.

Some people have criticized the President's tax plan because it breaks his promise not to raise taxes on middle class America. Generally they point to the energy tax—the Btu tax—as the culprit, because that tax is passed on to every consumer and every homeowner in the country.

But the proposal to raise taxes on Social Security benefits is the real broken promise.

The administration fudged their numbers enough to be able to say that

70 percent of the increased tax burden would fall on people with incomes over $100,000.

But 70 percent of the increased revenue from the Social Security tax increase falls on people with incomes well under $100,000.

The President's tax plan singled out millionaries—people with incomes over $250,000—for that special 10-percent tax surcharge. But the Social Security tax increase does exactly the same for many people with incomes between $25,000 and 32,000. Many of these middle-class, retired folks will be hit with tax increases over 10 percent.

They're not millionaires. They aren't even wealthy by most standards. But many Social Security recipients will be hit with 10- 11- 12- even 13-percent increases in their overall tax liability because of this proposal.

That is a crime. But it gets worse.

Over and above the outrageous inequity of this kind of tax increase for the elderly, there is another big problem with the Social Security tax increase.

Not only does it penalize savings and investment, it also breaks a sacred promise to Social Security recipients.

When the tax on Social Security benefits was enacted in 1983, the revenues were directed to the Social Security trust fund to ensure its future solvency. That was the purpose of the tax—to keep the Social Security trust fund strong.

The administration's proposal does not do that. The President's proposal would divert the additional revenues to other measures. We are talking about an outright raid on the Social Security trust fund.

The President's proposal to increase taxes on Social Security benefits is an outrageous breach of faith to Social Security and senior citizens.

Mr. Speaker, colleagues, the Social Security tax increase is not only bad policy, it is a broken promise and breach of faith.

We did not get an up or down vote on it last week. We have the opportunity to that right now. I urge you to search your soul and your conscience and do what is right—support this motion to instruct.

□ 1430

Mr. SABO. Mr. Speaker, I reserve the balance of my time.

Mr. KASICH. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. HERGER], a member of the committee.

Mr. HERGER. Mr. Speaker, I rise in strong support of the motion, and in opposition to raising taxes on senior citizens' Social Security benefits.

For years, we have heard the misleading rhetoric from our Democratic colleagues that Republicans were supposedly hostile to Social Security. This has never been the case, and today we Republicans are standing up to defend the Social Security system. We are saying it is wrong to tax 85 percent of a senior citizens' Social Security recipient's benefits simply because that person worked hard all his life and saved for his or her retirement.

Who is going to bear the brunt of this $32 billion tax increase? People with incomes as low as $28,000. Mr. Speaker, these are not fat cat millionaires. They are the people who have played by the rules—and have saved some money for their retirement.

What President Clinton and the Democrats are trying to do is penalize people who did what our Government expected them to do. We are hurting those who planned to supplement their Social Security benefits with savings or investments. We are treating these seniors like cash cows, to be milked to feed the growth of a runaway Government bureaucracy.

Is this the new Clinton fairness? Has the Congress decided that anyone making over $28,000 is now rich? Is the administration so out of touch that they have forgotten senior citizens often must pay for medication and other expenses that are frequently a part of growing older?

I hope not. Mr. Speaker, one way we can show that we are not out of touch is to support the gentleman from Ohio's motion to instruct the conferees to drop the punitive Social Security tax increase on senior citizens living on fixed incomes.

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I listen to the Republican rhetoric in utter amazement. We just voted on their budget resolution, their budget amendment. They today say we should not change anything that relates to taxes on the income for couples with incomes of $40,000 to $50,000 to make them more comparable to working couples, couples who are still working.

In their budget proposal, however, they had a $19 billion benefit cut on Medicare for elderly sick people, to increase their deductible for home health services and laboratory services. The Republican philosophy appears to be if one is elderly, if one is sick, and if one is poor, we will ask you to pay more, but if we ask on the ability to pay on income in comparison of taxes between an elderly couple and a working couple, to try to get some equity there, that is wrong. I do not understand that.

Clearly they would have preferred not this tax proposal, but they would have preferred $19 billion more for the elderly poor or sick, to increase their copayment. That does not make sense to me.

Let me speak to one other issue. Nothing is being taken away from the trust fund for retirement and disabled people. The additional revenues, however, do go under the President's current proposal to the hospital insurance fund, the Medicare fund, the fund with the most funding problems in the immediate future.

I am not sure the opposite side of the aisle is suggesting we let Medicare go bankrupt, that we should not deal with the funding problems that come there in the next 4 or 5 years. It seems to me an appropriate place for the additional revenues to go.

Let us be clear on the facts. Republicans want the poor, the elderly poor, to pay more deductibles. However, when we start speaking of the relative equity between working couples or working singles and retired singles, they say no.

I hear about asset accumulation. I also recall their amendment, one of the changes we had related to student loans, to exclude home and farm values in computing eligibility for student aid. They want to take that savings incentive away. There seems to be no consistency.

Despite my disagreement with this portion of the motion to instruct, Mr. Speaker, I still intend to vote for it because there are a couple of things in there that I think we will be able to comply with.

Mr. Speaker, I reserve the balance of my time.

Mr. KASICH. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, let me say off the bat, in response to the point that the chairman just raised, that first of all the Democrat plan, when we include the Medicare changes and the Social Security taxes, affects senior citizens by $85 billion. The Republican impact on Medicare is $73 billion. Right off the bat the Democrats are hitting the senior citizens by $12 billion more just in those categories.

What the Republicans have done, and have been the leaders on, is saying that Medicare part B ought to be means-tested, $100,000, which has been consistently rejected in the Committee on the Budget by the Democrats.

We are the first party to say that Medicare part A, that the deductible for people over $100,000 ought to be raised. The issue of copayments is one that I believe Mrs. Clinton will even address, because all Americans know that copayments are an essential part of having people involved in deciding what they should do on health care issues.

The simple fact of the matter is, the proposals that the Republicans have made here, the reason why some people have voted against them is because they are concerned about the complaints from rich senior citizens who have assets over $1 million and retirement incomes in excess of $100,000.

□ 1440

Furthermore, the Republican plan does not tax energy. We are not going

to also tax senior citizens when they drive their cars. And furthermore, any of the revenues that we raise are used to reduce the deficit. Any of the means testing that we use is to reduce the deficit, not to pass out money in community development block grants to parking garages on beaches and to have white water rafting teams to prepare for the 1996 Olympics, or any of this other investment spending which, as Members all now, one man's investment is another person's pork.

We do not want to tax people. We want to cut spending first and raise taxes later.

Mr. Speaker, I yield 3½ minutes to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN. Mr. Speaker, I thank the gentleman for yielding the time and I rise in support of the motion to instruct conferees.

I would like to respond to the chairman of the committee. There is a decided difference in asking senior citizens above a certain level of income, to raise the premium to a very reasonable amount on how they share and benefit in that program, and raising taxes on Social Security benefits here across the board, the proceeds of which are not going to be used to reduce health care costs, but for any other purpose which you all choose to devote them to. I think those watching should make a clear distinction.

With respect to the issue of copayments, I can guarantee that copayments are going to be a part of the health care reform proposal that is going to be proposed by your administration, and they should be, because people ought to be a part of the decisionmaking stream with respect to their health care. We may want to have some adjustment in there for low-income people that cannot afford to pay it, and that is perfectly OK. But copayments have been a part of the Medicare system since its beginning.

The only proposals we made were to include some things under copayments, that for some mysterious reason, have not in the past, been included under the copayments provision. So I think the public needs to understand what is at issue here.

But raising taxes on the backs of low- and average-income senior citizens is only part of the problem with the Clinton/congressional Democratic budget. Their bill raises net taxes by $267 billion while reducing net spending by only $160 billion, mostly out of defense, over the next 5 years.

Americans are prepared to sacrifice, if they believe their sacrifice will pay off in a balanced budget and a growing economy, and if they believe Congress has cut all possible spending first.

The Republican alternative did that. We proposed $38 billion in real spending cuts in the first year and $430 billion over 5 years with no new taxes.

The Clinton/congressional Democratic plan raises taxes by $28 billion in the first year while only cutting spending by $6 billion, again, mostly in defense. This does not count the additional $16 billion in additional emergency spending in the so-called stimulus package, which will only stimulate the deficit, pork-barrel spending, and future inflation.

This Clinton/congressional Democratic budget uses up all of the tax options out there; three times the amount of taxes adopted in the 1990 budget agreement that caused so much political turmoil. And this budget still fails where the 1990 agreement failed, and that is not getting control of the runaway costs in entitlements.

This is not the end; in a few months, we will have a health care reform proposal that, if not done right, could cost twice the amount of taxes proposed in this budget or $60 to $80 billion more per year.

My colleagues, vote to support this motion and let us recommit to live up to the expectations of the American people who are willing to sacrifice their pet interests in the national interest for a balanced budget.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I think we have to recognize this for really what it is. It really does not have a lot to do with the budget, and people who have been watching television for the last few nights have seen the talk shows where you have seen things held up where that this stimulus package is going to build golf courses and all of these things, and when you scrub it, it is not in there. It is just absolutely garbage that is being put out, misinformation.

And let us take this for what it is. This is looking to the next election 2 years from now where the pollsters and everybody are always saying if you do this you are going to have an issue on how the Democrats are attacking Social Security recipients.

If Members want to go back a few years to the first Reagan budget that ever came to this floor, and it is over 12 years ago, it was Republicans that offered the $125, to cut $125 for the oldest, sickest Social Security recipients in this country. David Stockman offered it, and you did not even have the guts to vote for that budget.

Now let us accept this for what it is. It is political rhetoric, and it is what you are going to see in the campaigning in 2 years from now.

I will put my record of supporting senior citizens, and veterans, and handicapped, and people who are deserving against anybody's in this House. And under your budget, I say to the gentleman from Ohio [Mr. KASICH], you had an attack on the WIC Program which everybody tells us is one of the best programs in the country. So let us accept this for what it is. It is rhetoric, and it is what we are going to see in commercials 2 years from now. It has nothing, absolutely nothing to do with what we are considering here today or we are going to be considering in the conference report.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE], and I hope that the gentleman from North Carolina will listen to the correct explanation of what we did with the WIC Program.

Mr. KOLBE. Mr. Speaker, the heart of this thing is the Social Security tax. And I just listened to the gentleman from North Carolina talk about the WIC Program. We are not talking now about the stimulus, but the WIC Program is in the budget, and let me make it very clear.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. KOLBE. I really do not have the time on my time. If the gentleman will give me another minute, I will yield.

Mr. HEFNER. Mr. Speaker, I did not bring up the stimulus package. The gentleman from Ohio raised the stimulus package, and talked about white-water rafting. I did not raise the stimulus package. But I raised it in response to what the gentleman from Ohio said.

Mr. KOLBE. I appreciate what the gentleman has said. Reclaiming my time, I will ask for 1 more minute from the chairman of the committee, if I might, when I finish here in a minute.

Mr. SABO. Mr. Speaker, I yield 1 additional minute to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. I thank the gentleman very much for the time.

Mr. Speaker, on the question of the WIC Program, let me make it very clear that we cut several billion dollars out of that program, but we cut it out of the administrative costs, and the administrative costs only. The Congressional Budget Office has scored it as saying this would have no impact, no negative impact on the delivery of services to those people who receive the food and nutrition programs.

And while in all of the food and nutrition programs about 5 percent of it goes to the WIC Program, we would put a floor of 12 percent of all of those nutrition programs for the WIC Program, so that is at least two times as much that would be spent on WIC as currently is being spent.

Let me get back to the issue that we are talking about here, which is the motion to instruct. The heart of this, as I said, is the Social Security tax.

Yes; we want a lower level of spending. Yes; we want the lowest level of revenues possible. But the real question we are debating here today is this tax on senior citizens, on benefits paid, Social Security benefits that are paid, is that equitable?

The chairman of the committee has said that it is really fair to tax them a

little bit more because working people are paying it. But what this fails to recognize is that we are really taxing savings. We are really taxing retirement income, as my colleague from Kentucky pointed out. What you are really saying in this, to the working person, is do not bother to save your money now because you are going to get taxed on that when you retire. Not only are you paying taxes now to pay for Social Security benefits for others, but then when you start receiving them, you are going to get taxed again on those.

So we are actually discouraging savings, and we are encouraging people to try to reduce their incomes when they are elderly and live only on their Social Security benefits. Nothing, nothing could be worse in terms of the savings rates that we have in this country and encouraging people to save when we say we are going to tax your Social Security benefits more if you save more and you have a larger income.

□ 1450

That is really what this is about, and that is why I think my colleague, the gentleman from Kentucky, is absolutely right to say that this is the real broken promise in the President's budget. This is the real broken promise.

We have in the past never, never taken the taxes that have gone to Social Security that have been paid on taxes on Social Security benefits and put those in anything but the Social Security trust fund.

The chairman is right. We are not taking anything away from it that is there now. But once you break the pledge, it is very easy to start to say, "Well, let us take a little bit more for the HI fund, the health insurance fund, because we need the dollars, because that is going bankrupt." We open that door when we do this, and I say to the senior citizens whom we made that commitment to in 1983 before I was here, I say that this is not the time to do it. We should adopt and we should vote for the Kasich motion to instruct.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. HOBSON], a member of the Committee on the Budget and the Committee on Appropriations.

Mr. HOBSON. Mr. Speaker, as a member of the House Budget Committee, I am pleased that we have this opportunity to draw attention to the priorities outlined in the President's tax plan.

The President's plan would increase the percentage of Social Security benefits that are taxed. For individuals whose income and benefits exceed $25,000, they will pay taxes on 85 percent of their benefits, 35 percent more than what is taxed now.

I agree that cutting the deficit requires sacrifice, but I believe that the burden must be shared equally among all Americans rather than targeting a single group, like older Americans.

These are people who have worked all of their lives and who we have encouraged to save, and now what we are going to do is hit them right between the eyes when they have no ability to recover. This is going to be devastating.

The Republicans on the House Budget Committee offered an alternative budget resolution that achieves serious deficit reduction, $68 billion more than the President's plan, without raising taxes or tinkering with Social Security.

Tax increases proposed in the Senate budget resolution exceed the increases in the House version. This motion instructs the conferees to choose the lesser of the two tax increases, and suggests that this can be achieved by eliminating the President's new Social Security tax.

Mr. Speaker, I urge support of this motion, because it is right. It is right for those seniors. We cannot increase the burden on these seniors who do not have the ability to make up this income.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Speaker, I urge my colleagues to support the motion to instruct, to address the Social Security tax issue.

In my district in Florida, which is one of the oldest districts in the Nation as far as average age, Social Security is a very, very important issue to us.

I believe Social Security should be off limits. We should not touch Social Security. Let us leave Social Security alone by itself.

My constituents are telling us, "DAN, we are willing to contribute. We are willing to make some sacrifices. But, first, we have to make sure the cuts are there. Let us get rid of all the wasteful spending, the pork barrel spending. Let us get a lean, mean government before we go after the taxes. The other thing is let us be fair. Let us share the burden."

Why are we going to hit the Social Security people? This is not a nickel-or-dime tax to Social Security recipients. We are talking about a tax of $500 or $1,000 a year more. That is a lot of money to someone making $25,000 a year in retirement. These people do not have a chance to go out and get new incomes. They only are limited. They have fixed incomes.

So why tax them more? They are already being hit with a Btu tax. We do not need to say, "Pay more, and pay another $500 or $1,000 a year." It is not fair. It is means testing.

President Clinton said we are not going to tax the middle class. When is $25,000 not middle class?

Instead of cutting and hitting Social Security, let us go after spending.

We offered amendment after amendment to the Democratic proposal. The Davis-Bacon Act would save us $6.2 billion alone.

The pork barrel spending, the Grace Commission listed pages and pages of cuts that needed to be addressed, and they refused to go after them.

Before we tax our senior citizens, please, let us go after spending cuts first. Let us instruct the conferees to not tax our senior citizens.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. SHAW], a member of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I rise in support of the Kasich motion.

The Kasich motion is a simple one—it instructs conferees to reduce the deficit wherever possible through spending cuts, and not higher taxes on Social Security benefits.

I strongly oppose the President's proposed tax increase on Social Security benefits, which was first termed a "spending cut."

But I also want to make sure that Members know that under current law taxes on seniors' benefits have been rising every year since 1984. They will continue to do so whether or not we approve the higher rates the President has proposed, because the thresholds above which this tax is applied have never been indexed for inflation.

In 1984, the first year seniors paid taxes on benefits, 8 percent of beneficiaries were liable. Now that number has almost tripled, so that in 1993 a full 23 percent of seniors will pay some taxes on benefits. As the President admits in his budget, by 1998 a full 30 percent of so-called wealthy beneficiaries will pay taxes on benefits.

Now I suppose some may think that this means that more and more seniors are rich. Think again—all it means is that more and more seniors who planned for their retirement are paying taxes on benefits.

This Carteresque bracket creep is just a hidden tax increase, and it should be eliminated. Requiring seniors affected by it to pay even more in taxes simply adds to the unfairness of the current situation. I plan to offer legislation that would eliminate this bracket creep, but for now the House should at least be on record opposing higher taxes on benefits.

Mr. Speaker, I urge Members to support the Kasich motion. Let us get this deficit down by cutting spending, not by punishing seniors who saved for their retirement.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the motion made by the gentleman from Ohio [Mr. KASICH].

Very simply, the motion calls on the members of the conference committee from the House of Representatives to insist on the maximum amount of deficit reduction through spending cuts without raising taxes on Social Security benefits. It is in line with the effort in the other body yesterday of Senator TRENT LOTT of Mississippi who offered an amendment to the budget resolution to strike the Social Security tax increases and achieve the same budget savings through spending cuts.

Mr. Speaker, since I was first elected, I have noted our problem is not that we are taxed too little, but that we are spending too much. So I am very concerned that the budget resolution, which is about to go to conference, continues the failed policies of past Congresses that seem so addicted to raising taxes rather than cutting spending.

I cannot understand how we can justify going back on the commitment we made in 1983 when we restructured Social Security to put it back on a sound financial footing. We cannot balance the budget on the backs of our Nation's senior citizens, and we cannot raise taxes on Social Security in order to pay for new spending.

As my colleague, the gentleman from Arizona [Mr. KOLBE] pointed out, this is a tax on savings. That is unfair, and it is bad public policy.

Mr. Speaker, I have heard from many of my constituents in Arizona demanding that the Congress cut spending first. I believe they are exactly right. Some of my constituents have also said they are willing to do their share to cut the deficit, Mr. Speaker, but none of them can understand having a tax levied on benefits for which they worked all of their lives just to finance more spending.

The motion offered by the gentleman from Ohio is very reasonable. It simply calls on the conferees from the House to reject the myth that the budget resolution must include Social Security tax increases in order to reduce the deficit.

Vote aye for deficit reduction without taxing our seniors.

Mr. KASICH. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. COX].

Mr. COX. Mr. Speaker, I thank the gentleman from Ohio, the distinguished ranking member of our committee, for yielding me this time.

Mr. Speaker, let us for a moment return to the big picture. The Democratic budget and the Clinton budget proposed the largest tax increase in American history.

The Republican budget contains real spending cuts without these tax increases. What we are asking you to do today is to vote to instruct our conferees to get rid of the most noxious of all of the tax increases. We oppose the tax increases, period; you support the tax increases across the board. We are trying right now to get rid of the most offensive of all of these tax increases, and that is the 70-percent, and that is what it works out to, the 70-percent tax increase on senior citizens who receive Social Security.

□ 1500

Now, I have heard the chairman say, this is the thrust of the Democratic argument, that it is fair to raise income taxes on wealthy Social Security recipients, and I have heard the chairman say his idea of wealthy is a working elderly couple making $40,000 a year.

I disagree, first, that that is fair and, second, that such people are wealthy.

But more than that, it does not stop there. We are not talking about working elderly couples who make $40,000, and that is the bottom; this goes all the way down to an elderly couple that is so poor that both of them must work and neither of them has an income of more than $16,000 a year.

Mr. Speaker, this is not wealthy, this is not wealthy at all. We ought to cut spending. But the taxes that you are seeking to raise here are only one-seventh of the new spending proposed in the Clinton budget.

In committee we offered an amendment to get rid of these increased taxes and to pay for it by eliminating the new Clinton spending.

It was defeated on a party-line vote.

We have already spent in just recent days one-half of these new taxes that will be raised from poor- and middle-class seniors on what we call a dire emergency supplemental that was loaded with pork.

President Clinton promised not to tax the middle class. Now the Democrats are offering a 70-percent tax increase on those near poverty. An elderly couple, with both spouses working, neither making more than $16,000 a year, is not wealthy. These people are hard working, salt of the earth, poor Americans.

Their incomes are one-eighth of yours.

Mr. Speaker, these people would be made desperate by this punitive, confiscatory, and unfair new tax. Tax the wealthy? My God, will no one here tell the truth?

Let us stop this 70-percent tax increase on elderly working poor Americans.

Vote "yes" on the motion to instruct.

Mr. Speaker, the chairman will try to tell us that working senior citizens do not get Social Security benefits. But of course, they can, and do, and should. These are people whom the Democrats are taxing. At least, in their favor, we can see that they seem not to understand what they are doing. Unfortunately, the working seniors who must pay the taxes will.

As for the size of the tax increase, the current portion of Social Security benefits subject to tax is 50 percent. The Democrats will now subject 85 percent of Social Security benefits to full taxation. That, Mr. Speaker, is a 70-percent increase. If the Democrats can't add, well—go figure.

Mr. SABO. Mr. Speaker, I yield myself such time as I may use.

Let me make a few comments. I have to tell the last gentleman who spoke he has some new math. I am not quite sure where it comes from. Frankly, if you have an elderly couple, both making $16,000, they are not collecting Social Security. So this law does not apply.

Where you can come up with a 70-percent increase is beyond my comprehension.

Mr. COX. Mr. Speaker, will the gentleman yield?

Mr. SABO. I yield to the gentleman from California.

Mr. COX. I thank the gentleman for yielding.

Mr. SABO. That is what the gentleman said.

Mr. COX. The tax, does it not, begins at a joint income of $32,000?

Mr. SABO. If they are both working, getting $16,000, they are not eligible for Social Security. So therefore they have no Social Security benefits.

Mr. COX. Retirement income?

Mr. SABO. Not Social Security.

Mr. COX. Retirement income?

Mr. SABO. That would not be impacted by this change. Retirement income is subject to normal tax laws currently. This proposal would make Social Security tax similar to other retirement benefits, but if this couple were working with $16,000 of income each, they would not be collecting Social Security. This would have no impact on them. This is not a 70-percent increase.

Let me just——

Mr. COX. Would the chairman disagree that the tax applies to joint incomes of $32,000?

Mr. SABO. Frankly, it would not impact a couple with $32,000 income even if it were all retirement benefits and they were not working. So clearly if they were both working, it would not apply.

Mr. COX. The chairman would agree the tax kicks in at a joint income of $32,000 a year?

Mr. SABO. No, it would not apply, because it is phased in at $32,000. It would not be phased in yet.

Actually, for a couple close to $40,000 of retirement benefits and not earned income before it applies; so the gentleman's numbers are all mixed up.

Mr. COX. If the gentleman——

Mr. SABO. Reclaiming my time, reclaiming my time, it is not a 70-percent increase.

Let me just make a couple of points again.

Again, I am going to vote for the resolution because I intend to work for the lowest level of budget outlays and the lowest level of revenues in conference, which are in the House budget resolution.

Let me get back to that point. I will agree, that I will hit 50 percent of the gentleman's instructions, which is not bad, it is better than the gentleman from Ohio [Mr. KASICH] hit.

But let me just put this in perspective again.

We had a Republican proposal which wanted to raise $19 billion of increased Medicare dollars simply by changing the deductible for home health services and some laboratory services. That was $19 billion, to come from the elderly, regardless of income, at the point they were sick.

Now they object very strenuously to the type of change that would put a little more parity between people, couples making $40,000 and more, between them and working couples. Let me just use as an example: A couple with a $40,000 income, if they are working, they would pay $4,065 of income taxes. Today that couple would, if they were retired, pay $2,790.

With this change in law, the working couple would still pay $4,065, the retired couple would go to $2,948, an increase of $158, or roughly 5 percent increase. They would still be paying over $1,000 less in income taxes than that working couple who has the same income, plus the working couple would be paying $3,000 in payroll taxes. So the difference for the $40,000 couple, if they are working, elderly or nonelderly, they would be paying over $7,000 in income and payroll taxes; the retired couple would be paying $2,948, or less than half.

It is, the type of change that we are talking about is nothing in the 70-percent category. It is a fundamental shift for some couples to treat them more like the tax law does for other couples for private pensions or Federal pensions, as a matter of fact. It has some equity.

And at the same time, what utterly amazes me is that the Republicans come with an earlier proposal to save not—$19 billion, and this tax change is about $30 billion, but their $19 billion was going to be totally from seniors regardless of income at the point they were sick. Their posturing today amazes me.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. I thank the gentleman for yielding to me.

I just want to ask a question because I am a bit confused, which is how I get from time to time at my age. But I would like to ask a question: The gentleman from California [Mr. COX] said that a couple making $40,000 a year is not rich. And that is true.

Mr. SABO. Absolutely.

Mr. HEFNER. If they are working, they are not drawing Social Security, are they?

Mr. SABO. That is right.

Mr. HEFNER. So a working couple making $40,000 are not drawing a Social Security check, am I right?

Mr. SABO. Absolutely, and would not be impacted by this type of change.

Mr. HEFNER. All right. I just wanted that for my own clarification.

Mr. SABO. Mr. Speaker, I yield back the balance of my time.

Mr. KASICH. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, I rise in strong support of the Kasich motion to instruct.

Mr. Speaker, I rise in strong support of the Kasich motion to instruct.

Out of the largest tax increase in American history, Congress should be able to avoid hitting the elderly with higher taxes on their Social Security benefits. Out of an across-the-board tax increase that broadsides anyone making as little as $30,000, anyone who drives a car or heats a home, we should be able to avoid a 70-percent tax increase on some Social Security benefits. Out of $270 billion in new taxes on American people, we should be able to be fairer than taking $30 billion from the Nation's elderly.

How unfair is it? Well, seniors receiving just $28,000 in benefits would pay a higher percentage in taxes than a couple in their 40's making $90,000. Maybe this doesn't appear unfair to an administration which counts the rent value of a home in order to artificially inflate people's income. And even if it does, don't expect the administration to admit it, anymore than they were willing to admit this is even a tax increase. My colleagues will recall, that Mr. Clinton counts the Social Security taxes as part of his spending cuts.

Let me propose this simple solution to the conferees: spare seniors an unjustified $30 billion hit by abandoning President Clinton's unnecessary $30 billion pork-ridden stimulus plan. The deficit doesn't need another $30 billion added to it, and America's seniors don't need $30 billion taken from them.

Let us endeavor to insure the highest level of deficit reduction, the highest level of spending cuts, the lowest level of tax increases, and that seniors are not run over in the process. Support the Kasich motion to instruct the conferees.

Mr. KASICH. Mr. Speaker, I yield my self the balance of my time.

I might say to the distinguished chairman that you cannot read half of this language. The last five or six words here, "without resorting to higher taxes on Social Security beneficiaries," what we will be watching in conference is how the House responds to this idea of taxing, now, up to 85 percent of Social Security benefits. We think that should not be done. We think we should cut spending first.

I hope that the chairman will agree to go along with the whole resolution, the whole motion to instruct, because that is what it is.

Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LEWIS of Georgia). The question is on the motion to instruct offered by the gentleman from Ohio [Mr. KASICH].

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KASICH. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 17, as follows:

[Roll No. 109]

YEAS—413

Abercrombie	Collins (GA)	Geren
Ackerman	Collins (IL)	Gibbons
Allard	Collins (MI)	Gilchrest
Andrews (ME)	Combest	Gillmor
Andrews (NJ)	Condit	Gilman
Andrews (TX)	Conyers	Glickman
Applegate	Cooper	Gonzalez
Archer	Coppersmith	Goodlatte
Armey	Costello	Goodling
Bacchus (FL)	Cox	Gordon
Bachus (AL)	Coyne	Goss
Baesler	Cramer	Grams
Baker (CA)	Crane	Grandy
Baker (LA)	Crapo	Green
Ballenger	Cunningham	Greenwood
Barcia	Danner	Gunderson
Barlow	Darden	Gutierrez
Barrett (NE)	de la Garza	Hall (OH)
Barrett (WI)	Deal	Hall (TX)
Bartlett	DeLauro	Hamburg
Bateman	DeLay	Hamilton
Becerra	Dellums	Hancock
Beilenson	Derrick	Hansen
Bentley	Deutsch	Harman
Bereuter	Diaz-Balart	Hastert
Berman	Dickey	Hastings
Bevill	Dicks	Hayes
Bilbray	Dingell	Hefley
Bilirakis	Dixon	Hefner
Bishop	Dooley	Herger
Blackwell	Doolittle	Hilliard
Bliley	Dornan	Hinchey
Blute	Duncan	Hoagland
Boehlert	Dunn	Hobson
Boehner	Durbin	Hochbrueckner
Bonilla	Edwards (CA)	Hoekstra
Bonior	Edwards (TX)	Hoke
Borski	Emerson	Holden
Boucher	Engel	Horn
Brewster	English (AZ)	Houghton
Browder	English (OK)	Hoyer
Brown (CA)	Eshoo	Huffington
Brown (FL)	Evans	Hughes
Brown (OH)	Everett	Hunter
Bryant	Ewing	Hutchinson
Bunning	Fawell	Hutto
Burton	Fazio	Hyde
Buyer	Fields (LA)	Inglis
Byrne	Fields (TX)	Inhofe
Callahan	Filner	Inslee
Calvert	Fingerhut	Istook
Camp	Flake	Jacobs
Canady	Foglietta	Jefferson
Cantwell	Ford (MI)	Johnson (CT)
Cardin	Fowler	Johnson (GA)
Carr	Frank (MA)	Johnson (SD)
Castle	Franks (CT)	Johnson, E. B.
Chapman	Franks (NJ)	Johnson, Sam
Clay	Frost	Johnston
Clayton	Furse	Kanjorski
Clement	Gallegly	Kaptur
Clinger	Gallo	Kasich
Clyburn	Gejdenson	Kennedy
Coble	Gekas	Kennelly
Coleman	Gephardt	Kildee

Kim	Moorhead	Serrano
King	Moran	Shaw
Kingston	Morella	Shays
Kleczka	Murphy	Shepherd
Klein	Murtha	Shuster
Klink	Myers	Sisisky
Klug	Nadler	Skaggs
Knollenberg	Natcher	Skeen
Kolbe	Neal (MA)	Skelton
Kopetski	Neal (NC)	Slattery
Kreidler	Nussle	Slaughter
Kyl	Oberstar	Smith (IA)
LaFalce	Obey	Smith (MI)
Lambert	Olver	Smith (NJ)
Lancaster	Ortiz	Smith (TX)
Lantos	Orton	Snowe
LaRocco	Owens	Solomon
Laughlin	Oxley	Spence
Lazio	Packard	Spratt
Leach	Pallone	Stearns
Lehman	Parker	Stenholm
Levin	Pastor	Stokes
Levy	Paxon	Strickland
Lewis (FL)	Payne (NJ)	Studds
Lewis (GA)	Payne (VA)	Stump
Lightfoot	Pelosi	Stupak
Linder	Penny	Sundquist
Lipinski	Peterson (FL)	Swett
Livingston	Peterson (MN)	Swift
Lloyd	Petri	Synar
Long	Pickett	Talent
Lowey	Pombo	Tanner
Machtley	Pomeroy	Tauzin
Maloney	Porter	Taylor (MS)
Mann	Poshard	Taylor (NC)
Manton	Price (NC)	Tejeda
Manzullo	Pryce (OH)	Thomas (CA)
Margolies-Mezvinsky	Quinn	Thomas (WY)
	Rahall	Thornton
Markey	Ramstad	Thurman
Martinez	Rangel	Torkildsen
Matsui	Ravenel	Torres
Mazzoli	Reed	Torricelli
McCandless	Regula	Towns
McCloskey	Reynolds	Traficant
McCollum	Richardson	Tucker
McCrery	Roberts	Unsoeld
McCurdy	Roemer	Upton
McDade	Rogers	Valentine
McDermott	Rohrabacher	Velazquez
McHale	Ros-Lehtinen	Vento
McHugh	Rose	Visclosky
McInnis	Rostenkowski	Volkmer
McKeon	Roth	Vucanovich
McKinney	Roukema	Walker
McMillan	Rowland	Walsh
McNulty	Roybal-Allard	Waters
Meehan	Royce	Watt
Meek	Rush	Waxman
Menendez	Sabo	Weldon
Meyers	Sanders	Wheat
Mfume	Sangmeister	Williams
Mica	Santorum	Wilson
Michel	Sarpalius	Wise
Miller (CA)	Sawyer	Wolf
Miller (FL)	Saxton	Woolsey
Mineta	Schaefer	Wyden
Minge	Schenk	Wynn
Mink	Schiff	Yates
Moakley	Schroeder	Young (AK)
Molinari	Schumer	Young (FL)
Mollohan	Scott	Zeliff
Montgomery	Sensenbrenner	Zimmer

NAYS—0

NOT VOTING—17

Barton	Gingrich	Sharp
Brooks	Henry	Smith (OR)
DeFazio	Lewis (CA)	Stark
Dreier	Pickle	Washington
Fish	Quillen	Whitten
Ford (TN)	Ridge	

□ 1530

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. (Mr. LEWIS of Georgia). Without objection, the Chair appoints the following conferees: Messrs. SABO, GEPHARDT, KILDEE, BEILENSON, BERMAN, WISE, BRYANT, STENHOLM, and FRANK of Massachusetts, Ms. SLAUGHTER, Messrs. KASICH, MCMILLAN, KOLBE, and SHAYS, Ms. SNOWE, and Mr. HERGER.

There was no objection.

GENERAL LEAVE

Mr. KASICH. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days within which to revise and extend their remarks on the motion to instruct conferees.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this extended moment to inquire of the distinguished majority leader the program for the next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, business is finished for today. There will not be a session tomorrow. Monday, March 29, the House will meet at 3 o'clock in the afternoon to take up at least four bills on suspension. There might be one or two others.

The House will consider on suspension S. 252, Idaho Land Exchange; S. 164, Custer National Forest; H.R. 239, Stock Raising Homestead Act; and House Resolution 118, Condemning the Release by the Government of Malta of Convicted Terrorist Mohammad Ali Rezaq.

We will try to hold those votes as long as we can so that Members on the West Coast and other faraway places are able to get here. We would anticipate there will not be a vote before 4 o'clock, and we will try to make it 5 o'clock.

On Tuesday, March 30, and the balance of the week, the House will meet at noon on Tuesday, 2 p.m. on Wednesday, and 11 a.m. on Thursday and Friday. On Tuesday we will take up House Resolution 107, the Committee Funding Resolution, 1 hour of debate, and then possible consideration of a debt limit extension, subject to rule, a possible conference report on House Concurrent Resolution 64, the budget resolution, and possible conference report on H.R. 1335, the fiscal year 1993 stimulus and investment supplemental appropriations. There may be a possible motion to go to conference on the so-called motor-voter bill.

Mr. MICHEL. Mr. Speaker, did the gentleman make mention that we would not then convene until 3 o'clock on Monday?

Mr. GEPHARDT. Mr. Speaker, that is correct.

Mr. MICHEL. Mr. Speaker, I have on my sheet two other measures beyond the four suspensions. Are those on the program for sure?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, they have not yet been cleared. Obviously, we will do that. But there are two bills, one with regard to the FBI and another with regard to the NAID Act that we need to clear before they can be added.

Mr. MICHEL. Mr. Speaker, might I inquire regarding the prospects of our ultimately meeting on Friday of next week?

Mr. GEPHARDT. Mr. Speaker, Members should expect the likelihood of meeting on Friday as high, because we are trying to finish the budget and the investment bill and need to have a debt bill finished before we can go away on the district work period over the Easter period.

Mr. MICHEL. Mr. Speaker, one final question having to do with the special order requests. For today are those permissible? Will they be going forward today? As Members may or may not know, the Speaker and the distinguished majority leader and minority leader and several others have gotten together to see if we could not come to some accommodation with respect to how we operate under special orders and 1-minutes. The question was raised earlier in the session. We recognize that there maybe were some problem areas that we wanted to resolve.

Mr. Speaker, we have not come to any firm conclusion there. But in the interval period of time, Members are really somewhat at a loss to know how to proceed.

Is it legitimate to ask these days for special orders? Are they going to be granted?

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I would be happy to yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Speaker, the distinguished minority leader and all the Members of the House should expect a request for a rollcall vote on adjournment after the announcements.

Mr. MICHEL. Today?

Mr. TAYLOR of Mississippi. Yes, sir.

Mr. MICHEL. Mr. Speaker, I thank the distinguished majority leader, and I have no further requests.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield one moment further, so Members can be assured of what is going to happen on Monday, I wanted to ask the distinguished majority leader if there would be the possibility of procedural votes earlier than 4 o'clock or 5 o'clock, the time we had hoped to hold votes, so Members could get here from the West Coast?

Mr. MICHEL. Mr. Speaker, I would sure hope that would not be the case. Normally our convening time would be 12, and, frankly, we do not even have votes on Monday. But the fact that we have things we have to get done next week before the Easter break here, it was my feeling that if we came in at a later hour and then could give Members the assurance that they are not going to get caught unbeknownst simply because of some Member's feeling at the moment. I would like to think that the minority leader can give the assurance that if we meet at 3 o'clock, that then we hopefully will not have any votes until, as the gentleman indicated, after 4, because of the debate time on the suspensions plus the other two matters.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from California.

Mr. DORNAN. Mr. Speaker, I would like to inquire of the leadership on both sides, is my understanding from the distinguished gentleman from Mississippi [Mr. TAYLOR] that he is going for adjournment every single legislative day for the foreseeable future. If this is the case, and it seems to have much approval on the other side, then that is the end of 1-minute also. Let us hear applause on that.

□ 1540

And that means that although I do not want to do something precipitous about Monday, I am a Californian, there are 22 of us. There are 32 Californians and Hawaiian and Oregonian and Washington and other Western States that have to go through some of our big cities.

I would say this would be the last Monday that Members will see that kind of courtesy extended to Members. If there is not going to be 1-minutes and special orders, and I have only taken one special order this whole year, so there is not any personal interest, but if we are further limiting the rights to speak of minority Members, along with the tyranny on the Committee on Rules, this will be the last Monday Members will not see votes starting off the day with a Journal vote and an immediate adjournment vote.

What are we doing here? What is this ugliness and rudeness? This is the worst session I have ever seen ever and where is the Speaker, for God's sake? He disappeared a week ago.

The SPEAKER pro tempore (Mr. LEWIS of Georgia). The Chair would advise the gentleman from California, the Speaker is in the chair.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I simply want to say to the minority leader that as he knows, we have had a number of conversations that are continuing. We are trading proposals and ideas for how to reasonably deal with special orders that would be an appropriate way for all the Members and that Members could agree to.

We will continue to work as hard and as quickly on that as we can and try to bring back to the membership a set of ideas that we hope can gain support.

REQUEST FOR MOTION TO ADJOURN

Mr. TAYLOR of Mississippi. Mr. Speaker, there being no further legislative business before this body, I move that we adjourn.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MICHEL] has the floor.

Mr. TAYLOR of Mississippi. Mr. Speaker, I withdraw my motion to adjourn.

ADJOURNMENT TO MONDAY, MARCH 29, 1993

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 3 p.m. on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

REQUEST FOR DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PICKLE (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of personal business.

Mr. ZELIFF (at the request of Mr. MICHEL) for today between the hours of 2:30 p.m. and 4 p.m., on account of attending a meeting at the Environmental Protection Agency on Superfund cleanup sites in New Hampshire.

Mr. DOOLITTLE (at the request of Mr. MICHEL) for today and until 12 noon on March 25, on account of attending a funeral.

ADJOURNMENT

Mr. TAYLOR of Mississippi. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 43 minutes p.m.) under its previous order, the House adjourned until Monday, March 29, 1993, at 3 p.m.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1992 TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the CONGRESSIONAL RECORD pursuant to section 4(b) of Public Law 85–804:

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, DC, March 16, 1993.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In compliance with Section 4(a) of Public Law 85–804, enclosed is the calendar year (CY) 1992 report entitled Extraordinary Contractual Actions to Facilitate the National Defense.

Section A, Department of Defense Summary, indicates that 73 contractual actions were approved and that 7 were disapproved. Those approved include actions for which the Government's liability is contingent and can not be estimated.

Section B, Department Summary, presents those actions which were submitted by affected Military Departments/Agencies with an estimated or potential cost of $50,000 or more. A list of contingent liability claims is also included where applicable. The Strategic Defense Initiative Organization, Defense Information Systems Agency, Defense Mapping Agency, and the Defense Nuclear Agency reported no actions, while the Departments of the Army, Navy, and Air Force, and the Defense Logistics Agency provided data regarding actions that were either approved or denied.

Sincerely,

D.O. COOKE,
Director.

Enclosure: As stated.

DEPARTMENT OF DEFENSE

EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE (Public Law 85–804), Calendar Year 1992

FOREWORD

The Deputy Secretary of Defense (DEPSECDEF) has determined that the national defense will be facilitated by the elimination of the requirement in existing Department of Defense (DoD) contracts for the reporting and recoupment of nonrecurring costs in connection with the sales of military equipment. Accordingly, pursuant to the authority of Public Law 85–804, DEPSECDEF has directed that DoD contracts heretofore entered into be amended or modified to remove these requirements with respect to sales on or after October 7, 1992, except as expressly required by statute.

In accordance with the DEPSECDEF's decision, the Deputy Under Secretary of Defense for Acquisition has directed the Assistant Secretaries of the Army, Navy, and Air Force, and the Directors of the Defense Agencies, to modify or amend contracts that contain a clause that requires the reporting

or recoupment of nonrecurring costs in connection with sales of defense articles or technology, through the addition of the following clause:

The requirement of a clause in this contract for the contractor to report and to pay a nonrecurring cost recoupment charge in connection with a sale of defense articles or technology is deleted with respect to sales or binding agreements to sell, that are executed on or after October 7, 1992, except for those sales for which an Act of Congress (see section 21(e) of the Arms Export Control Act) requires the recoupment of nonrecurring costs.

This report reflects no costs with respect to the reporting or recoupment of nonrecurring costs in connection with sales of defense articles or technology, as none have been identified for Calendar Year 1992.

CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85–804 TO FACILITATE THE NATIONAL DEFENSE, CALENDAR YEAR 1992

SECTION A—DEPARTMENT OF DEFENSE SUMMARY

SUMMARY REPORT OF CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85–804 TO FACILITATE THE NATIONAL DEFENSE, JANUARY–DECEMBER 1992

Department and Type of Action	Actions approved			Actions denied	
	Number	Amount requested	Amount approved	Number	Amount
Department of Defense, total	73	31,932,671.00	22,437,643.00	7	100,507,592.88
Amendments without consideration	6	31,921,237.00	22,426,209.00	5	26,107,592.88
Correction of mistake	0			1	74,400,000.00
Formalization of informal commitment	1	11,434.00	11,434.00	0	
Contingent liabilities	66			1	
Army, total	26	4,793,237.00	2,581,488.00	1	6,857.00
Amendments without consideration	3	4,793,237.00	[1] 2,581,488.00	1	6,857.00
Contingent liabilities	23			0	
Navy, total	44	9,139,434.00	9,031,434.00	3	100,000,000.00
Amendments without consideration	2	9,128,000.00	[2] 9,020,000.00	2	[3] 25,600,000.00
Correction of mistake	0			1	74,400,000.00
Formalization of informal commitment	1	11,434.00	[4] 11,434.00	0	
Contingent liabilities	41			0	
Air Force, total	3	18,000,000.00	10,824,721.00	2	485,028.00
Amendments without consideration	1	18,000,000.00	10,824,721.00	1	[5] 485,028.00
Contingent liabilities	2			1	
Defense Logistics Agency, total: Amendment without consideration	0			1	15,707.88
Strategic Defense Initiative Organization, total:	0			0	
Defense Information Systems Agency, total:	0			0	
Defense Mapping Agency, total:	0			0	
Defense Nuclear Agency, total:	0			0	

[1] Intes Construction Company requested extraordinary contractual relief in the amount of $4.5 million under Public Law 85–804. The request for relief was approved for $2.5 million. JAYCOR, Inc., requested extraordinary contractual relief in the amount of $293,237 under Public Law 85–804. The request for relief was approved for $81,488.

[2] Cincinnati Gear Company requested extraordinary contractual relief in the amount of $11.69 million under Public Law 85–804. The request for relief was approved for $9 million. The employees and sub-contractors of MIU Construction Company were granted extraordinary contractual relief in the amount of $20,000 after being denied the ordinary Davis-Bacon Act relief due to a Navy accounting error.

[3] Denials involved Tampa Shipyards ($24.7 million) and Oman-Fishbach International ($900,000).

[4] The Bahrain Defense Force Officer's Club was granted extraordinary contractual relief for the payment of subsistence support that was supposed to have been provided as part of a "Host Nation" agreement but was not.

[5] The Contractor, Mekel Engineering, Inc., withdrew its February 27, 1992, application for extraordinary contractual relief under Public Law 85–804 without either approval or denial by the Government.

SECTION B—DEPARTMENT SUMMARY

DEPARTMENT OF THE ARMY

Contractor: Intes Construction Company.

Type of Action: Amendment Without Consideration.

Actual or estimated potential cost: $2,500,000.

Service and activity: United States (U.S.) Army Corps of Engineers.

Description of product or service: Construction of a composite medical facility at Incirlik, Turkey.

Background: On November 10, 1988, the European Division of the U.S. Army Corps of Engineers awarded Contract No. DACA90–89–C–0400 to Intes Insaat San. Ve Tic. A.S. for the construction of a composite medical facility at Incirlik, Turkey, for the firm fixed price of $13,556,157, payable in U.S. dollars.

In September 1990, Intes submitted a request for relief under Public Law 85–804. This request was forwarded to the U.S. Army Corps of Engineers for consideration under DFARS 250.303. The Corps returned the request to the Army Contract Adjustment Board (ACAB) with the required analyses and documentation in February 1992. The Corps recommends granting relief, notwithstanding contrary recommendations by subordinate commands.

After reviewing Intes' request, its testimony before the Board, and the recommendations of the Corps and subordinate commands, the Board has determined that extraordinary contractual relief is warranted under the circumstances.

Statement of facts: For several years prior to the award of this contract, the inflation rate in Turkey exceeded 70 percent. The rate of inflation, however, was matched by changes in the U.S. Dollar/Turkish Lira exchange rate such that contracting in U.S. dollars provided insulation against the effects of inflation. The Contracting Officer followed the standard area practice of making the award in Dollars to take advantage of this stability.

Subsequent to award, the parity between the inflation rate and the currency exchange rate diminished. Inflation increased at a substantially higher rate than the Dollar in relation to the Lira.

Stripped of the insulating effect of the exchange rate, Intes began to experience significant losses due to inflation. The company was forced to borrow increasing amounts of money at varying interest rates exceeding 90 percent. Intes' financial stability was marginal, at best, at the time of award. Because of its increasing debt and the proposed loss on this contract, it is now unable to obtain additional financing for the project. Intes is in danger of being forced into bankruptcy by its creditors.

The hospital will be a chemical/blast protected facility designed to accommodate 235 combat casualties. It is replacing a facility which has been determined to be unsatisfactory by the Air Force Safety and Inspection Center due to multiple, major Life Safety Code violations. It will be the only U.S. military hospital in the Middle East. The current facility is not adequate to meet wartime mission requirements.

Justification: Intes requests Public Law 85–804 relief under the authority set forth in FAR 50.302–1, "Amendments Without Consideration." Paragraph (a) provides that:

When an actual or threatened loss under a defense contract, however caused, will impair the productive ability of a Contractor whose continued performance on any defense contract or whose continued operation as a source of supply is found to be essential to the national defense, the contract may be amended without consideration, but only to the extent necessary to avoid such impairment to the contractor's productive ability.

Although Intes has asserted that its continued operation as a source for future procurements is essential to the national defense, we conclude that it is not. The Corps reports that its bidders list for this area includes numerous contractors with similar capabilities.

The question of Intes' continued performance on this contract, however, is a different matter. FAR 50.305(d) provides that when essentiality is an issue and another agency is involved, the agency's advice must be obtained before making the final decision. The Commander, Headquarters TUSLOG (USAFE) noted that "Desert Storm and Desert Shield highlighted an already urgent need at Incirlik for a new hospital with significantly increased capability." We believe the Air Force has established a factual basis for a determination of essentiality. The existing hospital poses a threat to the safety of patients and staff. The new hospital is designed to be operable in an environment with chemical and nuclear contamination. The estimated delay associated with a reprocurement has been estimated from a minimum of

6 months to as long as 18 months or more. We believe this is unacceptable given that Incirlik facility is the only U.S. military hospital in the Middle East.

In its submission of January 17, 1992, Intes requested relief in the amount of $6,796,295. This consisted of about $5 million in immediate cash and $1.5 million to be paid over the remaining period of performance. The Corps District Commander (CDC) has estimated the cost of completion in a reprocurement to be approximately $4 million. The CDC presented this information to Intes and asked them for an absolute bottom line estimate of relief required. Intes responded by noting that it had sold some real property and improved its situation with creditors. Intes also revised its request for relief to reflect only the amount it asserts is necessary to keep its creditors at bay and complete the project without incurring additional losses. Intes requests an immediate payment of $3.25 million for creditors and $1.25 million to complete the project. Total relief requested would therefore be $4.5 million.

The Defense Contract Audit Agency (DCAA) conducted an audit of Intes in support of this request. DCAA estimates that Intes will lose approximately $2.5 million if it completes this contract without relief. In DCAA's opinion, this loss is attributable to Intes underbidding overhead and failing to heed readily available indications of expected changes in the exchange rate. DCAA also asserts that Intes' allocation of interest to this contract is overstated. DCAA does, however, confirm that Intes is heavily laden with debt and consequently is in severe financial difficulty.

The Board is authorized to grant relief to the extent necessary to avoid impairment of the contractor's productive ability. The relief requested by Intes exceeds the amount necessary to avoid impairment of its ability to finish the project and, in any event, the amount that can be prudently granted given the rough yardsticks used to gauge the relief requested.

Intes' financial posture was somewhat precarious prior to the award of the contract. The subsequent decline in its condition appears to be a continuation of an existing trend. The Board is concerned that even if relief is granted, Intes may not be able to complete the effort. Therefore, the Board must fashion relief in a manner that will provide some assurance of payment to Intes' creditors while not unnecessarily risking additional funds.

Decision: The Board concludes that continued performance of this contract is essential to the national defense. Subject to the availability of funds to be obtained by the Corps, an amendment without consideration is hereby authorized under FAR 50.302-1. The Corps is authorized to grant the relief set forth below:

1. Increase the contract amount by $2.5 million, payable only if, and when, the contract is satisfactory completed.

2. Extend the period of performance to December 31, 1992.

3. Eliminate retainage of any portion of progress payments and pay any and all amounts currently retained.

This action will facilitate the national defense.

Contractor: JAYCOR Inc.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $81,488.

Service and activity: Lake City Army Ammunition Plant (LCAAP), Wilmington, Delaware.

Description of product or service: Pension Program.

Background: Due to the sensitivity of the program and the urgency of the need, JAYCOR's participation in this lease was encouraged by Government technical representatives. Neither JAYCOR's representative nor the Government's technical representatives were aware of the limitations on the Government's ability to enter into leases. JAYCOR's representative and the Government technical representatives mistakenly believed that the Government was able to enter into a lease for the same duration as the lease JAYCOR entered into with the building's owner.

JAYCOR signed a full five year lease with the owner, at a rate of $105,000 per year, expecting the Army to sign a full five year lease with it. Procurement regulations prohibited the Army from signing a five year lease. Neither JAYCOR's representative nor the Government's technical representatives were aware of this restriction on lease term until the contracting officer prepared the lease. JAYCOR's lease with the Government provided for one base year with four option years. JAYCOR was, however, obligated for a full five years lease with the owner of the building.

JAYCOR leased the property to the Army for one year with four option years at $113,215 per year. JAYCOR also had a maintenance contract for the property.

The Army exercised the first two option years. The remaining two options were not exercised. JAYCOR remained liable for the remaining two years rent under the terms of its five year lease with the property owner.

On October 17, 1989, JAYCOR filed a request for relief under Public Law 85-804 for the cost of its lease with the building's owner and other related expenses.

JAYCOR alleged that an informal commitment existed between it and the Government. JAYCOR alleged that Government representatives directed it to enter into the five year lease. The Contracting Officer's investigation found no factual support for JAYCOR's allegation that it was directed to enter into the five year lease by Government representatives. However, the investigation concluded that sufficient facts existed to justify relief based upon either Government action, FAR 50.302-1, or residual power, FAR 50.4, but that the case for relief was not overwhelming.

During the Contracting Officer's investigation of the claim, several collateral criminal investigations of JAYCOR were initiated. Because of the unresolved criminal investigations and the contracting officer determination that the equities were relatively equally balanced, JAYCOR's request for equitable relief was denied on August 3, 1990.

JAYCOR continued to seek reconsideration during 1990 and 1991. The criminal investigations proceeded. In 1992, the criminal investigations concluded without finding any wrongdoing by JAYCOR. With the uncertainties arising from the criminal investigations removed, the contracting officer agreed to reconsider JAYCOR's claim.

Justification: The Contracting Officer recommended relief in the amount of $81,488 which was calculated based upon equal shares of the lease costs after JAYCOR's failure to attempt timely mitigation of damages was accounted for. The Contracting Officer based relief upon FAR 50.302-1(b), "Amendments Without Consideration (Government action)." Because the requested relief is over $50,000, the Contracting Officer referred the request to the ACAB.

Decision: By unanimous decision of the Army Contract Adjustment Board, an amendment without consideration is hereby authorized under FAR 50.302-1(b). The Government action supporting this relief was the original encouragement of JAYCOR to enter into the contract with the building owner, and the mistaken belief by Government technical representatives that the term of JAYCOR's lease with the building's owner could be duplicated in the Government's lease with JAYCOR. This Government action contributed to JAYCOR's loss resulting from its liability for two years of its five year lease for the building after the Government failed to exercise the remaining option years.

The Contracting Officer is authorized to recognize an amount not to exceed $81,488. This action will facilitate the national defense.

Contractor: Blount Brothers Corporation.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $6,857.

Service and activity: U.S. Army Corps of Engineers.

Description of product or service: Installation of interior walls and partitions for the construction of a 250,000 square foot office building at Peterson Air Force Base, Colorado Springs, Colorado.

Background: On August 9, 1985, the U.S. Army Engineering District, Omaha (CEMRO) awarded Contract No. DACA45-85-C-0146, in the amount of $17,723,000 to Blount Brothers Corporation. Under this contract, Blount Brothers was to construct a 250,000 square foot office building at Peterson Air Force Base, Colorado Springs, Colorado.

Blount Brothers awarded a subcontract to Facilitek Corporation for the installation of the building's interior walls and partitions. A number of these walls required the erection of steel studs to which were attached sheetrock and drywall. Facilitek classified and compensated these steel stud installers as "drywallers." As provided by the contractual wage decision, drywallers were to be compensated at a total hourly wage rate (basic hourly rate plus fringe benefits) of $9.06.

Following the receipt of an inquiry from one of the affected employees, the Contracting Officer sought guidance from the U.S. Department of Labor (DOL) as to the appropriate classification and wage rate for purposes of compliance with the Davis-Bacon Act. Based on the guidance furnished by the Denver Regional Office of the U.S. DOL's Wage and Hour Division, these workers should have been classified and compensated as carpenters. As provided by applicable regulations (29 CFR 5.5(a)(2)) and the contract provision entitled "Withholding of Funds," the Contracting Officer notified Blount Brothers of the labor standard violations by the subcontractor. When corrective action was not taken by the prime contractor, the Contracting Officer withheld contract funds sufficient to satisfy the appropriate wage restitution.

The Contractor thereafter sought administrative review by the DOL's National Office of the determination rendered by the DOL's Regional Office. In response, the DOL National Office requested that the Contracting Officer undertake a survey of classification and compensation practices in the project vicinity. Inasmuch as the survey findings did not support the determination of the DOL's Regional Office, the Contracting Officer forwarded a report to the Department of Labor furnishing the survey results. In view of

these developments, the Contracting Officer advised the DOL that he intended to release the funds withheld to cover the possible labor standards violations.

Upon the release of the withheld funds, representatives of the subcontractor filed what was referred to as "a claim for interest pursuant to Section 611 of the Contract Disputes Act." The interest is for the period of time that the Contractor's earnings were withheld. The Omaha District determined that the demand for interest was not valid on two counts. First, a claim against the Government must be submitted by the prime contractor; the Government has no privity of contract with subcontractors. Second, the payment of interest is a waiver of sovereign immunity, which is prohibited unless specifically authorized by an act of Congress or by the contract.

The Contract Disputes Act only provides for the payment of interest on a claim and the Contractor's request was not supported by a claim. Further, the Comptroller General has held that interest is not required to be paid on amounts withheld by contracting agencies at the direction of the Department of Labor. *Request for Advance Decision from Army Finance and Accounting Officer—Re-consideration*, B–201328, October 28, 1981. Therefore, the payment of interest is prohibited even where equity would permit it. This also applies where the Government has unreasonably delayed payments. *Muenich v. United States*, 410 F. Supp. 944, 947 (N.D. Ind. 1976). See also *Roy McGinnis and Company, Inc.*, B–226171, June 2, 1987.

The Contracting Officer therefore notified the contractor that relief could not be granted under either the Contract Disputes Act or the "Disputes" clause of the contract.

Blount resubmitted its "claim" under Public Law 85–804 and Part 50 of the Federal Acquisition Regulations entitled "Extraordinary Contractual Actions." More specifically, the Contractor is requesting relief under Section 50.302.1(b), which is entitled "Amendments Without Consideration."

Justification: The factors which must be present before relief can be granted are as follows: First, the Contractor must suffer a loss under the contract. Next, the character of the Government's action must be considered in determining whether relief is proper. Finally, it must be determined whether the Government directed its action at the Contractor and acted in its capacity as the other contracting party.

Decision: The Contractor's request for relief was denied based on the decision discussed below:

In order for relief to be granted under the above cited section, Blount must show a "loss under the contract not merely a decrease in its anticipated profits." Although the Contractor was requested to provide evidence of his original cost breakdown and the estimated total loss under the contract, the requested information has not been submitted. Therefore, it must be assumed that no loss can be documented.

The next factor to be considered is the character of the action. By nature, Blount's request is not one for which part 50 of the FAR was designed to provide relief. Part 50 is based upon the extraordinary emergency authority granted by Public Law 85–804 (50 USC 1431–1435). The law was enacted for the benefit of the nation as a whole in order to facilitate prosection of wartime activities. It serves as an outline of the policies and procedures to enter into, amend, or modify a contract which will facilitate the national defense. The Contractor's request in no way relates to the stated purpose of this law. Further, it may be argued that if the Contractor's request were granted, it would open the door for a number of claims of this type. Furthermore, granting of equitable relief under this provision of the FAR would impinge the ability of the Contracting Officer and the DOL to effectively enforce labor standards protections.

The final consideration in examining Blount's request for relief is whether the Government directed its action at the contractor and acted in its capacity as the other contracting party. The withholding of funds was undertaken by the Corps based on guidance furnished by the DOL and in accordance with the regulations promulgated by the DOL as reflected in the contract provision entitled "Withholding of Funds."

Contractor: Action Manufacturing Company.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $0.

Service and activity: Any Armament, Munitions and Chemical Command (AMCCOM).

Description of product or service: Pay existing debts of the company and to convert its fixed price contracts into cost contracts.

Background: In Memorandum of Decision Number 1234, the Board directed the Army Armament, Munitions and Chemical Command (AMCCOM) to enter into a supplemental agreement with Action Manufacturing Company (Action). AMCCOM was authorized to pay all existing debts of the company and to convert its fixed price contracts into cost contracts.

Justification: AMCCOM has reported that several contracts were completed for amounts substantially less than their cost ceilings, primarily due to the payment of Action's debt under other aspects of the supplemental agreement. AMCCOM has asked whether these amounts can be applied to contracts that cannot be completed within the cost ceilings estimated and established pursuant to the Board's decision and the supplemental agreement.

Decision: The Board's decision limited the total cost of the supplemental agreement to $24,500,000. The portion of relief applicable to the contract conversions was calculated by using the original fixed prices as a composite baseline. Amounts applied in addition to the baseline are allocable to the relief ceiling. Amounts merely shifted within the baseline do not constitute additional relief and should not be included in AMCCOM's calculation of relief granted.

AMCCOM has also proposed to insert absolute cost ceilings in the remaining contracts as a means of ensuring that the relief stays within the limit established in the initial decision. The Board concurs with this approach and authorizes AMCCOM to amend the supplemental agreement to include such ceilings.

These actions will facilitate the national defense.

Contingent liabilities

Provisions of indemnify contractors against liabilities because of claims for death, injury, or property damage arising from the demilitarization of chemical weapon stockpiles, operation and maintenance of chemical agent disposal facilities, handling of high energy propellants, or other risks not covered by the Contractor's insurance program were included in these contracts; the potential cost of the liabilities cannot be estimated since the liability to the United States Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause. Items procured are generally those associated with the operation and maintenance of chemical agent disposal facilities, production of antitoxins, handling of explosives, or performance in hazardous areas.

Contractor:

	Number
EG&G Defense Materials, Inc.	1
United Engineers and Constructors, Inc., Stearns-Rogers Division (Stearns-Rogers)	1
Bechtel National, Inc. (Bechtel) ..	1
Mason Technologies Inc. (MTI) ...	1
General Physics Corporation (GPC)	1
University of Minnesota	1
Federal Cartridge Company; ICI Americas, Inc.; Martin Marietta Ordnance Systems, Inc.; Olin Corporation (3 sites); Holston Defense Corporation	7
Day and Zimmerman/Basil Corporation; ICI Americas, Inc.; Mason and Hanger-Silas Mason Company; Uniroyal Chemical Company, Inc.; Day and Zimmerman, Inc. (2 sites); Thiokol Corporation (2 sites); Hercules, Inc. (2 sites)	10
Total	23

DEPARTMENT OF THE NAVY

Contractor: Cincinnati Gear Company.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $9,000,000.

Service and activity: National Steel and Shipbuilding Company (NASSCO).

Description of product or service: Reversing Reduction Gears (RRGs) for installation in AOE 6, AOE 7 and AOE 8 Fast Combat Support Ships.

Background: Contract N00024–90–C–2312 with the Cincinnati Gear Company (CINTI), 5657 Wooster Pike, Cincinnati, Ohio, calls for the design and manufacture of Reversing Reduction Gears (RRGs) for installation in AOE 6, AOE 7 and AOE 8 Fast Combat Support Ships currently under construction at National Steel and Shipbuilding Company (NASSCO). The gear for AOE 6 has been delivered to NASSCO for installation and trials. On December 3, 1991, CINTI requested $11,690,000 in Public Law 84–804 relief regarding its existing contractual obligation to deliver the RRGs for AOE 7 and AOE 8. After review of the request by the Defense Contract Audit Agency (DCAA), CINTI subsequently revised the amount of requested relief downward to $9,108,000. CINTI requests the relief in the form of an amendment without consideration. This amount would allow CINTI to continue contract performance and avoid an imminent filing for bankruptcy protection. Absent relief, CINTI's cash requirements will exceed its available lines of credit in the third quarter of calendar year (CY) 1992, thereby jeopardizing completion of the AOE 7 and 8 RRGs. Naval Sea Systems Command (NAVSEA) has recommended that relief be granted in order to resolve CINTI's cash flow problems through the completion of all AOE 7 and 8 RRG effort.

The NAVY has approximately $400 million invested in the AOE 7 and 8 construction ongoing at NASSCO, and the RRGs are essential components of these two ships. The mission of the AOE 6 class is to provide delivery of on-station munitions, dry and frozen provisions, and bulk petroleum/oil/lubricants, to aircraft carrier battle groups (CVBGs) underway in hostile environments. The AOE 6

class ships, which are built to a MIL-SPEC combatant standards design, and have survivability features (i.e., shock, blast, etc.) equivalent to other ships in the CVBG, significantly extends the endurance of the CVBG for combat operations. The CINTI RRGs are critical propulsion components for these ships.

Evaluated force levels for various scenarios show that station ships are required to maintain battle group endurance. The ability of the AOEs to provide all replenishment services simultaneously minimizes the non-operational time of the battle group. Alternatives which use multiple shuttle ships in combination to perform the station ship functions (such as AORs combined with AEs) require multiple replenishment which, coupled with their slower speed, reduces the on-station time of the battle group. These combinations are more expensive to operate and exacerbate the shortfall of AE ships.

The RRG has been previously designed, manufactured, and tested as a suitable alternative to controllable pitch propellers (CPPs) and results in increased overall propulsion plant efficiency. The AOE 6 class RRG is a transmission speed reducer and propulsive thrust reversing device. USS SUPPLY (AOE 6) is the first ship in the U.S. Navy to employ the RRG for astern and maneuvering operation. The AOE 6 class RRG utilizes a newly designed SSS Clutch and a hydraulic Franco-Tosi Reversing Converter Coupling (RCC). The AOE 6 class RRG is the first Navy gear set to use the RCC. The AOE RRG is the largest hardened and ground gear that has been manufactured for a U.S. Navy ship.

Justification

Essentiality: The Chairman of the Joint Chiefs of Staff, by memorandum CM-1324-92, dated May 29, 1992 (unclassified), has reaffirmed the need for four AOE 6 class ships to provide logistics support to CVBGs. As the RRGs are critical propulsion components for the AOE 7 and 8 ships it is essential that the RRGs be provided as soon as possible to support the most cost-effective and timely means of completing the AOE 7 and 8 ships. CINTI is the only available source in a position to deliver the AOE 7 and 8 RRGs close to the scheduled dates. Granting Public Law 85-804 relief will facilitate the national defense by supporting completion of the RRGs such that the AOE 7 and 8 ships can be completed to support the Base Force.

Alternatives: In order to ensure that there is no adequate and acceptable alternative to use of P.L. 85-804 for obtaining the AOE 7 and 8 RRGs the following were considered: (1) completion of the AOE 7 and 8 RRGs by another Contractor; (2) completion of the AOE 7 and 8 RRGs by a Navy shipyard; (3) providing unusual progress payments under the CINTI contract; and (4) CINTI filing for bankruptcy protection. Review of these alternatives resulted in the following conclusions:

(1) Completion of the AOE 7 and 8 gears by another Contractor is not practicable because of the cost and schedule impacts to the ship construction schedule. In order to support a January 25, 1994 delivery date for AOE 7, and the August 25, 1994 delivery date for AOE 8, the NASSCO contract requires the AOE 7 and AOE 8 RRGs, currently in the manufacturing stage at CINTI, to arrive at the shipyard on the scheduled dates of January 25, 1993 and August 18, 1993, respectively. In order to replace CINTI with another gear manufacturer, NAVSEA projects that it will take approximately 11 months to award a competitive reprocurement contract for completion of AOE 7 and 8 RRGs. Once a contract is awarded, it is estimated that it will take approximately 19 months for the AOE 7 RRGs, and 24.5 months for the AOE 8 RRGs, to be delivered to NASSCO using CINTIL material for both gear sets. These estimates are based upon a review of the contracting and specification development processes, and the discrete manufacturing operations and other steps which remained to be completed on the RRGs as of July 1, 1992 to delivery. These estimates also assume that the successor Contractor is not delayed in commencing AOE 7 and 8 RRG work due to its existing workload.

Based on $1.75 million per month ($1.5 million/month deescalated) shipbuilder cost impact for late delivery of the RRGs to NASSCO, it is estimated the shipbuilder impact alone could be as high as $90.0 million. The estimated shipbuilder cost impact assumes that NASSCO does not have to close up the ships and lay off workers until the RRGs arrive. In the event such action becomes necessary, the cost impact would be significantly higher than the amount shown above. Because of the high cost and unacceptable adverse impact on the AOE 7 and 8 ship construction schedules and alternative of using another Contractor was rejected.

(2) Based on a survey of seven naval shipyards it was concluded that the naval shipyards do not currently have the capability to manufacture AOE-6 class reduction gears for two primary reasons: no naval shipyard has gear hobbing equipment with the capacity required for the large gear, and no naval shipyard currently has the gear grinding capability required for the specified finish of the AOE-6 reduction gears. In order to obtain the necessary capability/capacity to manufacture AOE-6 reduction gears, a capital investment of approximately $3.5 million would be required, in addition to a significant period required to obtain funding and capital equipment. This alternative was also rejected.

(3) The progress payment rate under the CINTI contract is 80 percent. The Defense Contract Audit Agency (DCAA) performed cash flow analyses at an unusual progress payment rate of 95 percent. Review of these projections concluded that granting of unusual progress payments could not resolve CINTI's financial situation. Further, the degree of relief which would be provided by a 95 percent progress payment would, at best, provide only a period of four months before additional relief was required. It was concluded that even though providing unusual progress payments would accelerate cash payments for a limited period of time, total payments under the contract would not achieve delivery within the available line of credit. This alternative was also rejected.

(4) The risks and uncertainties associated with a filing for bankruptcy protection cannot be predicted. A contract can be assumed or rejected, as well as other actions taken. Additionally, the Navy would lose control of the situation because it must deal with bankruptcy court and creditor committees rather than with its Contractor. It was concluded that if the AOE RRG contract is rejected by CINTI, the Navy would have to request the bankruptcy court to approve terminating the contract for default and the removal of all AOE 7 and 8 gear material to another facility. As noted above, the costs associated with having another source complete the AOE 7 and 8 RRGs, and the downstream impact on the shipbuilder, far exceed the amount of Public Law 85-804 relief requested to complete the RRGs at CINTI. Because of the uncertainties inherent in the bankruptcy process, and the related cost increases and schedule delays, this alternative was not considered to be in the Navy's best interests.

Absent Public Law 85-804 relief NAVSEA anticipates that CINTI, because of losses it has incurred on the AOE RRG contract, will be forced to file for protection under the bankruptcy laws and may reject the AOE RRG contract. As noted above, such action would cause significant delays and cost increases to the AOE shipbuilding program and greatly diminish the likelihood that these ships would ever become operational.

Summary: In summary, a thorough review of available financial data and applicable DCAA audit reports, resulted in a conclusion that without an amendment pursuant to Public Law 85-804, providing relief of up to $9.0 million, CINTI's cash flow will be so unstable as to to preclude delivery of the AOE 7 and 8 RRGs to the shipyard.

Decision: Applicable regulations provide that no contracts, amendments, or modifications shall be entered into under the authority of Public Law 85-804 unless other legal authority in the Department is deemed lacking or inadequate. In the present case, the financial position of CINTI has deteriorated due to losses it has incurred, and projects it will incur, to the extent that, absent the granting of extraordinary contractual relief, it is probable that CINTI will be compelled by its creditors to file for protection under the bankruptcy laws and stop work on the AOE 7 and 8 RRGs. The Federal Acquisition Regulations (FAR) at 50.302-1(a) provides:

(a) When an actual or threatened loss under a defense contract, however caused, will impair the ability of a Contractor whose continued performance on any defense contract... is found to be essential to the national defense, the contract may be amended without consideration, but only to the extent necessary to avoid such impairment to the Contractor's productive ability.

For the foregoing reasons, the Board concludes that CINTI faces an actual or threatened loss which will impair its productive ability on a contract on which continued performance is essential to the national defense. The operating forces need the AOE 7 and 8 to provide adequate logistics support for the Carrier Battle Groups. The relief of up to $9.0 million recommended by NAVSEA is projected to be the amount necessary to achieve the Navy's objective of ensuring continued contract performance until AOE 7 and 8 RRG are manufactured and delivered, thereby best preserving the Navy's investment in the AOE 7 and 8 ships. Accordingly, in the exercise of authority to grant an amendment without consideration under Public Law 85-804, it is hereby determined that it will facilitate the national defense to amend contract N00024-90-C-2312 without consideration in an amount not exceed $9.0 million. additionally, the Procuring Contracting Officer (PCO), may make necessary adjustments to the contract delivery dates and waive consideration for specification changes that are consistent with this relief. Contract price increase resulting from the Public Law 85-804 relief shall be used to complete delivery of AOE 7 and 8 RRGs. Adequate internal controls and audit trails shall be in place to validate use of these additional payments.

The PCO is authorized and directed to prepare and execute the required contractual documents in accordance with this decision. When relief is provided during performance, there is naturally concern whether the relief

will accomplish its purpose and whether CINTI's management will be motivated to complete performance with maximum efficiency. The Board has carefully reviewed the cash projections, and NAVSEA has closely reviewed CINTI's operations and management. Based on this, the Board has confidence that the provided relief will accomplish its purpose. Nevertheless, the Board must insist on a number of conditions which the PCO shall, by modification of the contract, make a condition for relief.

The modification shall include the following conditions:

(a) the Contractor shall provide the PCO each week an updated cash flow analysis for the period ending three months after delivery of the AOE 8 gear;

(b) based on the provided information the PCO may, at his discretion, on a periodic basis, adjust the contract price, based on the Contractor's current cash position, to provide adequate funds to maintain the production of the RRGs, up to a cumulative total of $9,000,000 from which the PCO may provide a delivery incentive not to exceed $1,000,000 per gear in order to motive Contractor adherence to the delivery schedules for AOE 7 and 8 gears;

(c) the PCO shall obtain agreement from the Contractor that upon delivery of the AOE 8 RRG, the Contractor shall allow the Government to offset against any amount due to the Contractor on the AOE program an amount that would have leave the Contractor with $8.66 million of revolving debt (this is the amount existing on June 30, 1992), assuming use of $1.8 million of cash which was collateral for the Contractor's revolving debt in the operation of the business. This agreement excludes amount paid by the Government as delivery bonuses.

(d) The Contractor shall agree that the assumptions contained in the cash flow projections which support the granting of relief shall not be materially changed during the period of this relief;

(e) a general release clause, waiving any and all claims against the Government, arising prior to the date of the amendment, out of the performance of this or any other contract between the Government and the Contractor:

(f) the Contractor shall not, during the period of relief, make investments or advances or loans to any person or corporation, nor declare or pay any dividends, make any other distribution on account of any shares of its capital stock, or increase executive compensation, without the consent of the PCO;

(g) require that the Contractor's cash assets, specifically its $1,800,000 reserve, be made available to meet cash requirements;

(h) The Contractor shall not make any advance or loan, or insure any liability as guarantor or surety for any unrelated party, corporate officer, or director.

The modification may also contain such additional terms which, in the judgment of the PCO, are necessary and proper to protect the Government's interests.

Contractor: MIU Construction.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $20,000.

Service and activity: Naval Air Station, Alameda, California.

Description of product or service: Interior painting and repair of building 5, Naval Air Station, Alameda, California.

Background: Western Division, Naval Facilities Engineering Command (WESTDIV) awarded Contract N62474-84-C-8732, interior painting and repair of building 5, Naval Air Station, Alameda, California, to MIU Construction for $159,500 on July 6, 1989. This project was administered by the Resident Officer In Charge of Construction, San Francisco Bay. As a construction contract, both performance and payment bonds were required. The Contractor proposed and the Government accepted individual sureties for the bonding requirements of this contract.

During the contract performance period the Contractor experienced numerous performance and cash-flow problems with his employees and sub-contractors. Ultimately, the contract was terminated for default. Mr. Ungeraeu, President of MIU, signed a novation agreement to have his sureties complete the contract. Like Mr. Ungeraeu, the sureties have also filed for bankruptcy.

On September 26, 1989, the ROICC requested the DOL initiate an investigation of wage discrepancies. On November 29, 1989, the DOL requested that the ROICC withhold $131,708.

The DOL Davis-Bacon Act (DBA) and Contract Work Hours and Safety Standards Act (CWHSSA) investigation of MIU Construction, disclosed that the firm failed to pay the required prevailing wage rates to employees who worked on the project in excess of forty hours per week.

DBA back wages were computed in the amount of $34,002.85 for 22 employees and CWHSSA back wages were computed in the amount of $2,537.68 for 15 employees. Liquidated damages of $410 were also computed. At the conclusion of the investigation, MIU agreed to make full restitution of $36,540.53 through the transfer of monies due them on the contract.

Progress payments related to this contract were processed by the Navy Financial Services Department, Navy Supply Center, Oakland, California (RFSD). In an attempt to assist the Contractor in minimizing his cash flow problems, the ROICC telefaxed invoice number 4 to RFSD. This invoice was not properly posted at RFSD and as a result, payment was duplicated. Checks were issued in the amount of $19,147 on December 12 and December 22, 1989. This error was not identified by RFSD until February 1991.

On January 18, 1991, the DOL directed the Navy to transfer $36,540.53 to the General Accounting Office for disbursement to the underpaid employees. But for the fact that invoice number 4 had been processed for payment twice, sufficient funds would have been available for transfer to GAO.

Justification: The FAR, sub-part 50, "Extraordinary Contractual Actions" prescribes the policies and procedures for initiating contract actions required to facilitate the national defense under the extraordinary emergency authority granted by Public Law 85-804 (as amended by Public Law 93-155).

The action proposed by this Memorandum is within the authority of the Act because no other legal authority exists within the Agency.

We consider the transfer of additional funds to GAO for disbursement to the Contractor's employees to be an amendment without consideration in accordance with FAR 50.302.1(b). The Contractor has not suffered a loss, but his employees have endured financial hardship by the Navy's inability to provide restitution. The employees, acting on behalf of their employer, MIU, provided services to the Government from which a benefit has been derived.

The action of the Government, specifically, the failure of both the administering contract office and the disbursement office to provide an accurate detailed accounting of contract funds, lead to an overpayment to the Contractor so that there was not enough money remaining in the contract to make restitution.

The Government has filed a demand for payment against MIU for the amount of money over-paid on this contract. COMNAVFACENGCOM has advised WESTDIV to file a claim in Bankruptcy Court against the sureties.

The contract balance of $18,402.64 was transferred to the GAO on June 13, 1991. By COMNAVFACENGCOM memo of August 15, 1992, approximately $20,000 in SIOH funds were approved for transfer from WESTNAVFACENGCOM to ROICC San Francisco. The ROICC will prepare the appropriate documentation to forward this money to the GAO for disbursement.

Decision: The recommended action shall not be construed to create any liability on the Government's part; nor shall this set precedent as to the Government assuming the responsibilities covered by sureties for obligations that would otherwise be fulfilled by payment and performance bonds.

This action will facilitate the national defense by ensuring that the Government does not place an undue financial burden upon the affected parties as a result of Government negligence and oversight.

As stated in COMNAVFACENGCOM letter of June 3, 1992 (see DCN 2U000733), these employees were denied the ordinary Davis-Bacon remedy as a result of a Navy accounting error. It was therefore appropriate that a transfer of approximately $20,000 be made to the GAO for restitution of labor violations.

Contractor: Tampa Shipyards.

Type of action: Amendment Without Consideration.

Actual or estimated potenial cost: $24.7 million.

Service and activity: Naval Sea Systems Command (NAVSEA).

Description of product or service: Completion of T-AO 191 and T-AO 192 fleet oilers.

Background: Tampa Shipyards Inc. (Tampa), a wholly owned subsidiary of the American Shipbuilding Company (AMSHIP), submitted a Request for Extraordinary Contractual Relief under Public Law 85-804 on May 26, 1992, in the amount of $24,158,721 (original request). Tampa submitted a revised request received by the PCO on August 3, 1992. The revised request changed the total amount of relief requested to $24.5 million. The request arises out of Tampa's performance of Contract N00024-90-C-2300 for the completion of T-AO 191 and T-AO 192 fleet oilers.

NAVSEA awarded Tampa letter contract N00024-90-C-2300 on November 16, 1989, for the completion of T-AO 191 and T-AO 192. NAVSEA originally awarded the construction contract for these ships to Pennsylvania Shipbuilding Company (PennShip), but the contract was terminated for default. Modification PZ0004, dated June 29, 1990, definitized the Tampa contract. The primary effort in the contract consists of: 1) a fixed price incentive contract line item number (CLIN) 0001 covering Tampa labor and overhead costs for the design and construction of the two ships with a ceiling price of $49 million and 2) a cost reimbursable CLIN 0007 for the additional material and subcontractor effort necessary to complete the ships.

During performance of the contract, Tampa and NAVSEA had differing interpretations over responsibility for correction of defects or deficiencies for work performed by PennShip and concerning the amount of ma-

terial necessary to complete the ships. As a result, the parties executed Modification P00012 on April 30, 1991, which stated in part:

WHEREAS, the Parties now agree that it is in their mutual interests to clearly provide that the Contractor, for adequate consideration as set forth herein, will assume total responsibility for the provision of acceptable vessels under the contract, to include correction of any defects or deficiencies for work performed by the defaulted Contractor, whether or not previously inspected or accepted by the Government under the terminated contract, and whether or not reasonably susceptible of being known by the Contractor, except as otherwise allowed for herein; and . . .

The only exception to the Contractor's obligation to correct all defects specified in the contract is under CLIN 0007 whereby Tampa is reimbursed for the cost of repairing latent defects in vendor supplied equipment and material where there is no vendor supplied warranty. Modification P00012 increased the ceiling price of CLIN 0001 to $59.6 million for both ships, and provided an immediate lump sum payment of $3.2 million. The delivery date for T-AO 191 was extended to May 29, 1992 (extended by six months), and for T-AO 192 to December 15, 1992 (extended by five months). Modification P00012 also contained a full and final release precluding Tampa from any further recovery for "covered events" occurring prior to the execution of the modification.

Tampa experienced significant financial and performance problems which resulted in Tampa's failure to make progress to meet the T-AO 191 contract delivery date of May 29, 1992. NAVSEA issued a Cure Notice to Tampa on March 20, 1992, in order to preserve the Government's right to terminate the contract for default. The specific items addressed in the Cure Notice were: excessive over-aged accounts payable; continued inability to adhere to the critical path schedule; insufficient monthly physical progress to support contract delivery dates; severe shortage of working capital; and the scheduled procurement of onboard spares and repair parts which would not support the contract delivery date.

Justification: Tampa responded to the Cure Notice on March 30, 1992. Tampa's response was predicated upon the generation of $10 million in working capital. Tampa proposed that it would provide $5 million of the working capital, with the Government providing the balance by means of a change to the progress payment system and a release of a $3 million letter of credit issued by Tampa as a performance guarantee on the T-AO contract. NAVSEA notified Tampa by letter on May 15, 1992, that its responses to the Cure Notice did not support the requested course of action. In order to ensure the Government's right to terminate for default at a later time, the contract delivery dates for the two ships were unilaterally extended. The new contract delivery dates were established as January 31, 1993, for T-AO 191 and September 30, 1993, for T-AO 192. Modification P00016 dated May 25, 1992, incorporated the changes to the delivery dates.

On May 26, 1992, Tampa submitted its original request for extraordinary contractual relief in the amount of $24,158,721. Tampa stated that it would be forced to file for bankruptcy protection if an initial payment of $16.7 million was not made by June 6, 1992. This request was subsequently orally modified such that $7 million was requested by June 6, 1992, supplemented by an additional $500,000 per week above normal progress payments. Tampa proposed this modified arrangement to provide sufficient working capital until a decision was made on its Public Law 85-804 request. Tampa asserted in its original request that the Government should provide contractual relief based upon the following three theories: Tampa's continued performance is esssential to the national defense; the Government has caused a loss to Tampa which has resulted in potential unfairness; and the Government should correct mistakes in the T-AO contract. In addition, Tampa requested that the contract be reformed to convert the existing fixed price incentive CLIN 0001 (Detail Design and Construction) to a cost plus fixed fee line item, the delivery dates be extended for each ship, and the $3 million letter of credit requirement be canceled.

A preliminary analysis was performed by NAVSEA, including a visit to Tampa by NAVSEA representatives and the Assistant Secretary of the Navy for Research, Development, and Acquisition (ASN(RD&A)), which concluded that Tampa had not provided any basis for approval of the relief. NAVSEA advised Tampa on June 5, 1992, of the decision not to grant interim relief and reaffirmed the expectation of continued performance.

Mr. George M. Steinbrenner, the former Chairman of the Board of AMSHIP, the current chairman of the AMSHIP Executive Committee and principal stockholder of AMSHIP, commissioned a study by Paul Maglicocchetti Associates (PMA) of selected Tampa activities and requested that ASN(RD&A) withhold a final decision on the Public Law 85-804 request for approximately two weeks until the PMA study was completed. (PMA is a defense and legislative consulting company.) Mr. Steinbrenner subsequently requested additional time for PMA to conclude its study and briefed ASN(RD&A) on June 30, 1992. The study focused on two areas, namely, the reasonableness of the Tampa estimates to complete the ships and the organization, management and staffing of areas critical to the proper functioning of Tampa.

The study by PMA on Tampa's behalf concluded that sufficient uncertainty existed in Tampa's estimates at completion (EAC) such that the estimated loss should be increased by a contingency factor of 25 percent. The PMA report also indicated that Tampa had failed to adequately staff and organize the company to perform new construction work despite representations made to the Navy prior to T-AO contract award. The report provided a recommended management and organization restructuring but did not address a plan to restructure the company from a financial perspective.

Mr. Steinbrenner advised the navy that questions concerning the PMA study should be discussed with representatives of PMA. NAVSEA and PMA met on July 8 and July 9, 1992, to discuss the financial restructuring of the company, the original Public Law 85-804 request, and NAVSEA's specific questions concerning the PMA study. During these discussions, PMA acknowledged that the original Tampa Public Law 85-804 request was unclear regarding the amount of total relief requested and that the Public Law 85-804 submission should be revised. PMA indicated that the initial proposal requested that CLIN 0001 be converted to a cost reimbursable line item. However, PMA discussed a proposed revised request which would retain CLIN 0001 as fixed price incentive, but with the ceiling price increased by $24.7 million, and that a provision for unusual progress payments be included. The new ceiling price for CLIN 0001 would be increased to $84.3 million. In addition, Tampa would rescind its request to cancel the $3 million letter of credit. Under PMA's proposed revised plan, if there were an agreement to grant relief in the amount of $24.7 million pursuant to the Public Law 85-804 request, PMA estimates that Tampa would receive an immediate payment of approximately $16.7 million through an unusual progress payment.

NAVSEA received the revised request for relief in August 1992. The revised request states that the basis for relief is on the theories of essentiality and mistake. Tampa indicated that it will be forced to cease all business operations by August 7, 1992, if Public Law 85-804 relief is not granted. The supplemental request states that the contract should be amended to: and mistake. Tampa indicated that it will be forced to cease all business operations by August 7, 1992, if Public Law 85-804 relief is not granted. The supplemental request states that the contract should be amended to:

Convert CLIN 0001 to a firm fixed price line item with a price of $83.5 million (amounting to an increase of $23.9 million);

Authorize an unusual progress payment of approximately $15,222,000;

Increase CLIN 0007 by $562,000 to reimburse Tampa for previously disallowed subcontractor costs;

Change the progress payment system by deleting the billable points;

Reduce the amount of retainage for each ship to $500,000;

Establish a new cost type CLIN for Equipment Failure Reports (EFRs). Reduce the scope of CLIN 0001 by approximately $6 million to cover EFRs and place this amount under the new CLIN. Further, pay Tampa delay and disruption for EFRs based on a Tampa formula;

Establish a controlled bank account for CLIN 0002 (spare parts) and authorize down payments for purchases; and

Extend the delivery dates for T-AO 191 to October 31, 1993, and June 30, 1994, for T-AO 192, based on receipt of relief by August 31, 1992.

Decision: A. Neither Tampa's continued operation as a source of supply nor Tampa's continued performance on the T-AO contract is essential to the national defense.

FAR 50.302-1(a) states that a contract may be amended without consideration when a Contractor suffers an actual or threatened loss under a defense contract that impairs its productive ability provided the Contractor's continued performance on a Government contract or continued operation as a source of supply is essential to the national defense.

It is NAVSEA's position that there is no basis to grant Tampa an amendment without consideration based on essentiality to the national defense. Other sources are capable of building T-AO 187 class ships. NAVSEA's analysis indicates that transferring the ships to another facility would not add unacceptable cost or schedule delays. Therefore, Tampa's continued performance of the T-AO 191 and T-AO 192 contract is not essential to the national defense.

Tampa's request for Public Law 85-804 relief relies on the November 16, 1989, Industrial Mobilization Base Justification and Approval (J&A) to establish that it is essential to the national defense as a source of supply. The J&A, which provided authority to award the contract to Tampa, found that it was in the best interest of the national defense to maintain Tampa as a source for auxiliary ship construction in the near term of two

years. Many of the assumptions which were relied upon in making the decision in the 1989 J&A have since changed. The current projections for new Navy construction indicate a significant decrease in the anticipated quantity of ships is required. It is NAVSEA's position that the loss of Tampa as a shipyard would not significantly impair the national defense or appreciably decrease the nation's shipbuilding capability. Even if Tampa was no longer a viable shipbuilding firm, there are a sufficient number of shipbuilding facilities in the United States which could satisfy the Navy's procurement requirements. This position is supported by a recent Shipbuilders Council of America (SCA) study based on Navy data which demonstrated that the Navy's shipbuilding capacity requirements could be satisfied by other existing shipyards, even if Tampa was no longer a viable shipyard. Further, Tampa does not possess any type of critical facilities. Therefore, NAVSEA concludes that there is no basis to support Tampa's contention that it is essential to the national defense as a continued source of supply.

In addition, Tampa's request for relief under Public Law 85-804 does not contain facts similar to the requests of other shipbuilders which were found to be essential to the national defense. Tampa's Public Law 85-804 request refers to the Navy's decision to grant relief to Marinette Marine Corporation (Marinette) regarding its performance of the MCM-1 class shipbuilding contracts. The facts contained in Tampa's request for relief are significantly different from those in the decision to grant Marinette relief under Public Law 85-804. At the time of submission of the Public Law 85-804 request, Marinette had submitted Requests for Equitable Adjustments (REAs) to NAVSEA. The Navy granted Public Law 85-804 relief, along with settlement of the REAs. Relief to Marinette was based on the finding that Marinette faced an actual or threatened loss which impaired its productive ability on the MCM contracts, the continued performance of which was essential to the national defense. It was determined that the MCM ships were urgently needed by the Navy. Further, it was determined that the relief to Marinette provided the least negative impact to the Navy from both coast and schedule aspects.

In another request by a shipbuilder, the Navy granted interim relief to NASSCO under Public law 85-804 regarding its performance of the AOE-6 contract. The facts under that contract were also dissimilar to Tampa's request for relief. NASSCO had submitted over 40 claims to NAVSEA. NASSCO was granted interim relief pending evaluation of claims. It was concluded that resolution of NASSCO's claims through the disputes clause of the contract was inadequate, because NASSCO could not or would not sustain continued operations through the time necessary to resolve the disputes because of its financial condition. The Navy found that NASSCO faced an actual or threatened loss which impaired its productive ability regarding a contract whose continued performance was essential to the national defense. It was determined that relief would facilitate the national defense, because there were no other practicable or feasible alternatives to obtain the AOE-6 or AOE-7 which are essential ships. Further, it was concluded that transferring the ships to another facility for completion would add significant and undue cost and schedule delays. There was also a determination that any delays due to deliveries of the AOE-6 or AOE-7 would increase the Navy's shortfall for combat logistics force ships. The decision to grant relief to NASSCO was a unique situation where Public Law 85-804 was used as a method to allow NASSCO to continue performance until claims were evaluated and settled.

B. It is unlikely that Tampa would be able to successfully complete the contract even if Public Law 85-804 relief was granted.

Even if Tampa was determined to be essential to the national defense, it was concluded that denial of Tampa's request for Public Law 85-804 relief is the proper course of action, because it is unlikely that Tampa would be able to successfully complete the T-AO contract even if the requested relief were granted. Tampa's Public Law 85-804 request has not demonstrated a realistic viable plan for completing the T-AO contract or for extricating itself from its financial distress. The PMA study recognizes that Tampa has not been properly managed, staffed or organized to perform the T-AO contract. While the PMA study recommended some specific management initiatives, there are no reasonable guarantees these steps will assure the Tampa can complete the ships.

Based on analysis of all of the documents and information provided, NAVSEA does not believe that Tampa can perform the T-AO contract even if the relief requested were granted. It was concluded that Tampa needs significantly more than the $24.5 million requested to establish that its productive ability would no longer be impaired and to complete the ships. Tampa has not provided an adequate basis for the Navy to accept Tampa's assurances concerning its cash flow projections and representations concerning financial viability to support the completion of the ships.

NAVSEA's concern, that it is unlikely that Tampa will complete the T-AO contract even if the financial relief is granted, is demonstrated by Tampa's request to further extend the delivery dates each time it has made a Public Law 85-804 submission. (Modification P00012 extended the delivery dates to May 29, 1992, for T-AO 191 and December 15, 1992, for T-AO 192. (Modification P00016, dated May 28, 1992, unilaterally extended the delivery dates to January 31, 1993, for T-AO 191 and September 30, 1993, for T-AO 192.) In its original request under Public Law 85-804, Tampa requested that the delivery dates be extended to June 11, 1993, for T-AO 191 and February 28, 1994, for T-AO 192. The PMA study, referencing an anticipated settlement on the Public Law 85-804 request, stated: "Should funds become available by July 1, 1992, TSI has established September 1993 and April 1994 as the current scheduled date of completion for the T-AO 191 and T-10 [sic] 192, respectively." Tampa's revised request indicates that the delivery dates should be extended to October 31, 1993, for T-AO 191 and June 30, 1994, for T-AO 192. It is apparent from Tampa's submissions that Tampa cannot either project when ships would be completed or provide adequate assurances that it can deliver these ships and complete the contract.

c. Tampa has not established a basis for relief to correct a mistake in the T-AO contract

FAR 50.302-2 states that a contract may be amended or modified to correct or mitigate the impact of a mistake. FAR states that examples of mistakes are: failure to express the agreement of the parties; and obvious unilateral mistake; and a mutual mistake as to a material fact. Tampa's request states that there was a mutual mistake "as to the complexity of the understanding in having a second Contractor take over and complete the work that has been stated by another party." According to the revised request, it was impossible for the parties to accurately define the work because of "unforeseen difficulties."

NAVSEA considers that, since Tampa inspected the ships prior to award, Tampa should have been able to reasonably determine the scope of work. Also, Tampa worked on the ships for almost 18 months before it signed Modification P00012. This was a significant additional period in which Tampa could have identified the remaining scope of work. Modification P00012 provided Tampa significant consideration to unconditionally assume the responsibility for any additional work including the correction of PennShip defects. While performance of the contract has been more costly than originally projected by Tampa, it does not appear that there has been a mistake for which relief should be granted.

Tampa asserts in its letter dated August 3, 1992, which supplements the request, that there was a mutual mistake regarding operation of progress payment methodology (progressing system). Tampa maintains that both parties intended that Tampa would receive a 25 percent "advance payment" based on the operation of the progressing system. The approved progressing system includes billable points, the first of which is 25 percent. According to Tampa, whenever it began a work item, it believed that it would be authorized to receive 25 percent "up front working capital." Tampa now asserts that both parties did not recognize at the time the progressing system was approved that this assumption was incorrect, because clause H-26, "Payments," states that the amount of payment for physical progress shall not exceed the amount of costs incurred by the Contractor.

There was no mutual mistake concerning the operation of the progressing system. NAVSEA was fully aware of the operation of the Payments clause when it approved the progressing system. It was not the intent of NAVSEA to provide Tampa as "advance payment." NAVSEA is not authorized to give Tampa an "advance payment" as is now asserted.

Tampa provided an invoice as an attachment to its letter concerning the progress payment system. The letter states, "Note the first invoice prepared using this methodology is contained in Attachment 'B'." This invoice concerning the operation of the "Payments" clause. The invoice specifically states, "Progress Payment No. 1 for period ending August 12, 1990 is hereby requested under clause H-26 entitled 'Payments (applicable to CLIN G001)' of the above referenced contract." Tampa also acknowledges that the invoice reflects a reduced payment. The invoice establishes that Tampa had knowledge that invoices could be reduced by the operation of the "Payments" clause. Tampa has not provided any information to establish a mutual mistake occurred when the progressing system was approved by NAVSEA.

Conclusion: After considering all relevant information, it is determined that Tampa's Public Law 85-804 request should be and hereby is denied.

Contractor: Oman-Fischbach International.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $900,000.

Service and activity: The Department of the Navy.

Description of product or service: Construction of petroleum, oil and lubricants (POL) tank farm at Lajes Field, Island of Terceria, Azores.

Background: Oman-Fischbach International (hereafter referred to as OFI), a joint venture of two American companies; Oman Construction Company and Fischbach and Moore International Company, was awarded contract N62470-81-C-1177 for construction of petroleum, oil and lubricants (POL) tank farm at Lajes Field, Island of Terceria, Azores. The contract was awarded on September 30, 1985 for $21,622,000.

By amendment 0001 to the Invitation to Bid, all bidders were advised that the successful Contractor was required to: (a) fulfill, to the maximum extent possible, its manpower needs with Portuguese nationals; (b) give preference to the use of Portuguese materials in contract performance; and (c) rent disposal or borrowed areas from Portuguese nationals or land owners when Government furnished areas were not available. Each bidder was required to provide his bid price in U.S. Dollars (as opposed to a foreign currency); and the successful bidder would be paid by the Navy in U.S. Dollars.

Bid opening was held on August 20, 1985, and ten bids were received in response to this Invitation For Bid (IFB). Bid prices ranged from $21,622,000 to $29,750,000. The second, third, and fourth low bids were $21,800,000; $23,363,273; and $23,973,000, respectively. The Government estimate was $32,000,000.

Justification: OFI has submitted a request for extraordinary relief under the Federal Acquisition Regulation Sub-part 50 (Public Law 85—804) in the amount of $667,353.64 and $200,480.00 for one of its principal subcontractors, A.J. Marques & Marques LdA (Marques). Marques is a British-Portuguese (BP) joint venture contracted to perform the painting portion of the contract requirements. Marques based its bid to OFI in U.S. Dollars, recognizing that they would incur costs in BP Sterling and Portuguese Escudos.

OFI's request for extraordinary relief is based on variances in the exchange rates for U.S. Dollars with BP Sterling and the Portuguese Escudo. At the time of contract award the U.S. Dollar ($1.00) was the equivalent to 172.56 Portuguese Escudo and 136.42 BP Sterling. OFI and Marques both maintain that even though they used an "average" exchange rate, the "extreme" variations and the subsequent devaluation of the U.S. Dollar caused them to lose not only anticipated profit but sustain actual monetary losses because they were required to utilize the BP Sterling and the Portuguese Escudo in payment to their subcontractors and suppliers.

Marques further asserts that their loss was also based on unusually severe weather conditions experienced during the contract performance period. We note, however, that this issue was addressed by modification P00020 which extended the contract completion date by 77 calendar days from April 2, 1988, to June 18, 1988, for abnormal weather conditions that existed December 1, 1986 to March 31, 1987. As a no-cost time extension, P00020 was issued bi-laterally on May 19, 1987, and is considered to constitute a complete and equitable adjustment.

FAR 50.3 classifies extraordinary contractual relief into three broad areas of consideration. The first, "contract adjustment" considers a Contractor's request for relief based on whether the Contractor suffers a loss under a defense contract because of Government action, the character of the action will generally determine whether any adjustment in the contract will be made, and its extent. When the Government directs its action primarily at the Contractor, and acts in its capacity as the other contracting party, the contract may be adjusted in the interest of fairness.

In the instant case, a change in the exchange rate cannot be considered an action directed primarily against OFI by the U.S. Government. The devaluation of the U.S. Dollar was an event whose outcome is dictated by the world market and economic trends. The rate of exchange when examined against a four-year period, shows a statistical "bell curve" pattern, with the September 1985 rate being the peak. A prudent approach would base a bid on a more reasonable rate of exchange considering that historical data showed that 172 ESC: $1.00 was an unprecedented rate of exchange.

In addition, while the rate of exchange was 172 ESC: $1.00 at the time of award; as the time bidders were preparing their bid it was considerably lower at 167.34 ESC.

Other aspects of relief criteria consider adjustment if there is a mistake or ambiguity in the contract. With regard to OFI's request, this is not applicable. Another consideration examines informal commitments that need to be formalized in order to make payment. Again, with OFI, this is not applicable.

As an ancillary note; there have been 53 change orders/modifications issued against this contract for the period September 1985 to April 1990. Over a 4.5 year period, the contract value has increased by $1,155,559. Each change order or modification utilized the current rate of exchange in determining the U.S. dollar value of that change.

Decision: Based on the findings as outlined above, neither OFI nor Marques have substantiated any basis for extraordinary contractual relief as provided by FAR 50.3 Therefore, the request for relief in the amount of $867,833.64 is denied in its entirety.

Contractor: Bethlehem Steel Corporation (BSC).

Type of action: Correction of Mistake.

Actual or estimated potential cost: $74.4 million.

Service and activity: NAVSEA.

Description of product or service: Construction of two Navy oceanographic survey ships, TAGS 39 and TAGS 40 at the corporation's Baltimore Marine Division, Sparrows Point Yard.

Background: Bethlehem Steel Corporation (BSC) requested extraordinary contractual relief on Contract N00024-85-2188 for $74.4 million from the Secretary of the Navy on January 3, 1991. This contract was performed at the corporation's Baltimore Marine Division, Sparrows Point Yard, and involved the construction for two Navy oceanographic survey ships, TAGS 39 and TAGS 40.

The request was sent to the Navy Contract Adjustment Board (NCAB) on February 8, 1991.

BSC requested relief from the Contracting Officer (NAVSEA) on three prior occasions. On June 8, 1987, BSC submitted a request for reformation of the contract (to a cost type contract) based on inappropriate contract type. This was denied by the Contracting Officer on August 6, 1987. On October 24, 1988, BSC requested reformation of the contract based on mutual mistake, unconscionability and commercial impracticality. This was denied by the Contracting Officer on July 3, 1989. On October 23, 1989, BSC submitted a claim to NAVSEA for restitution and reformation of the contract based on mutual mistake regarding the work involved. This was denied by a Contracting Officer's final decision dated September 17, 1990. BSC did not appeal this denial to the Armed Services Board of Contract Appeals within the required time period, but did file an appeal with the Claims Court on September 12, 1991.

BSC bases its January 3, 1991, request for extraordinary contractual relief on the fact that it suffered undisputed large losses in constructing the two vessels, and argues that the procurement was flawed, in that the wrong type of contract (fixed price) was used. BSC argues that an improper procurement technique (a Circular of Requirements "COR") was used, and inadequate time was afforded the offerors to prepare proposals. BSC states that as a result of the procurement techniques, the performance problems detailed in the request occurred. BSC concludes that this was a case of mutual mistake for which contract reformation and monetary adjustment is appropriate.

BSC supported its January 3, 1991, request with an update of the four volume claim dated October 23, 1989, previously submitted to NAVSEA. Additionally, BSC met with the NCAB on June 12, 1991, and on August 22, 1991. BSC submitted additional written remarks for the record as a result of these meetings on June 21, 1991, and August 26, 1991. There was also an exchange of correspondence regarding the use of the COR technique, and the complexity of the vessels built using the COR technique.

Applicable regulations require that no contracts, amendments, or modifications shall be entered into under the authority of Public Law 85-804 unless other legal authority in the department is deemed lacking or inadequate. In this case, BSC has asserted what amounts to mistake or commercial impracticability, both legal theories which could be argued before either the Board of Contract Appeals or the Claims Court. However, the Contracting Officer has issued a final decision denying the request, and it is clear that there is no other avenue of relief from the Navy. In addition, by seeking relief from the NCAB, BSC has sought the most expedient and inexpensive forum available. The NCAB concludes therefore, that since the Navy (NAVSEA) has issued a final denial, BSC has exhausted its legal remedies within the agency, and the request is properly before the NCAB notwithstanding the appeal filed to the Claims Court on September 12, 1991.

The NCAB has requested a verification of the amounts claimed, and an audit of the booked costs reveals that BSC overran the contract price by approximately $74 million. While this information has been taken from the BSC ledgers and has not been subject to a comprehensive audit, the NCAB is reasonably satisfied that the amount is substantially correct. The NCAB is aware that this amounts to a total cost claim, in that the amount requested is the remainder after the contract price is subtracted from total costs incurred for the project. BSC has made an adjustment for $17.7 million, which have been excluded from total costs, because these costs were unabsorbed overhead costs associated with projected business base that did not materialize. The audit also reviewed and took no exception to the methodology used by BSC in excluding this $17.7 million from costs charged to the contracts.

Justification: BSC's basic position is that the procurement was flawed, as indicated above. In greater detail, BSC requests that the contract should be adjusted because of fairness and the needs of the mobilization base. For clarity, the BSC request and then the NAVSEA response have been summa-

rized. The NAVSEA response is the NCAB's interpretation and summary of information received from NAVSEA.

(1) Fairness. Mutual mistake. It is critical to understanding BSC's position to recognize that BSC's request is based on events which occurred on or before contract award. BSC has signed a mutually negotiated modification (for $22 million) releasing all post award claims. Events occurring during contract performance are used to illustrate the alleged mutual mistake.

(a) BSC contends that the use of a Circular of Requirements (COR) was unsuitable for a ship of the complexity of the TAGS 39/40. BSC states that these ships were represented by the Navy to be commercial, subject to a performance specification, the COR.

NAVSEA response. NAVSEA points out that procurement officials are by statute given a wide discretion in their choice of procurement techniques, 10 USC 2304, and 10 USC 2306. A COR is essentially a performance specification but in identified areas, it does impose military specifications and it can be very detailed and specific. If the COR is satisfied, then the Contractor has discretion as to how to construct the ship. It is obvious that there will be an interplay between the COR requirements and the Contractor's discretion as to the remainder of the ship. BSC had adequate opportunity to review the COR, and had discretion in achieving COR performance objectives.

NCAB assessment. The NCAB finds that the Acquisition Strategy included use of fixed price with price escalation for certain cost items and contracting with a COR technique. The Assistant Secretary of the Navy (Shipbuilding and Logistics) supported the use of the COR procurement technique in a letter dated November 10, 1983. At the time of the solicitation, no offeror took issue with the use of a COR. The Request for Proposal (RFP) required the Contractor to develop ship specifications and a contract design which the Contractor would later use to develop a detailed design and then build the ships. Responsibility for completeness, accuracy and adequacy of ship specifications, contract design, and detailed design was the Contractor's as specifically stated in the contract at clause H-37. The Navy has used a COR technique frequently with success for specialized noncombatant vessels. The experiences of other contractors with COR procurements indicates that there is nothing inherently wrong in using a COR technique and indeed, it seems to work well with auxiliary vessels.

The Navy has used the COR technique in a number of auxiliary (i.e. non-combatant) ship contracts, (see David White and Carlton Croyle, Jr., "Navy Acquisition of Ships to Commercial Standards Using a Circular of Requirements"), and continues to acquire additional ships with this technique. The Board was shown instances where the Navy has combined a COR requirement procurement approach with a fixed price contract format, as well as fixed price incentive and cost contracts, to secure the construction of 13 different classes of ships over the past 17 years, including the AGOR 21/22; T-AGOS 1; T-ATF 166; YTT 1: YTB; AGOR 23 and the T-AGS 51. The NCAB was presented evidence that these are the largest new construction ships for which a COR technique has been used, as opposed to conversion, and they appear to be among the most complex ships that have been built using the COR procurement technique. It appears to have been near the outer limit of suitable cases. The issue presented to the Board, however, is not whether it stretched the envelope but whether it exceeded the limits as to constitute an unfair contractual vehicle. From all that has been presented, it did not.

(b) BSC alleges that insufficient time was allowed to prepare its proposal.

NAVSEA response. There was sufficient time. The Navy allowed 55 weeks from issuance of the preliminary COR to Best and Final Offer (BFO). During the proposal period other firms requested that the RFP requirements be reduced and additional time for proposal submission be provided resulting in the Navy's reducing some requirements, eliminating others and extending the RFP closing date. BSC's only request was a 35 day extension for price proposal submission. The Navy extended the time by 42 days.

NCAB assessment. The NCAB finds from the contemporaneous record, that the length of time was not an issue in this procurement. The offerors had 55 weeks from issuance of the preliminary COR to the BFO, which should have been adequate. It was noted for the record that BSC's allegation that the Navy takes 18 to 24 months to prepare a design specification is misleading. The Navy has taken this amount of time for surface warfare ships when the Navy is doing its own design work; it does not take this amount of time when contracting for vessels using a COR technique. While Modification 6 to the COR, incorporating the subbase, may have come late in the process, and its incorporation did not lead to some ultimate delay and disruption, BSC was compensated for this by Modification P00010 to the contract which awarded BSC $22 million for subbase problems, and obtained for the Navy a release of all post-award claims.

(c) BSC contends that they and the Navy believed the BSC contract design was an adequate basis for pricing and building the ships, but it was seriously flawed as demonstrated by the specific items BSC alleges. These items are detailed and discussed in Part III below. BSC argues that because the Navy evaluated the proposal and awarded a contract based on the proposal, that this action has caused the Navy to approve that the proposal was suitable or adequate for its intended purpose, i.e. adequate to build the vessels in question.

NAVSEA response. The Solicitation required BSC to submit contract guidance drawings and a specification. BSC stated that BSC would meet all the requirements of the COR. The Navy had no reason to believe that BSC did not understand the COR or contract requirements. Changes to the proposal design are expected in working to the final detail design in what engineers call the "design spiral." The Navy evaluation did not warrant that the BSC contract proposal would be adequate, but only that it met minimal evaluation criteria. Many of the BSC problems were self inflicted.

Neither party believed at the time that the design evaluated was suitable as is for production. To quote from NAVSEA's letter of September 17, 1990, denying BSC's request for adjustment:

"Bethlehem's position that, at the time of contract award, Bethlehem's contract design was believed to contain the level of detail and accuracy implied in its claim is not reflected in Bethlehem's proposal and is not supported by the language of the contract, which clearly contemplates the existence of errors and omissions in Bethlehem's contract design and specifications and allocates the risk of such errors and omissions, as well as the risk of compliance with the contract requirements, to Bethlehem."

The contract precludes any argument by BSC that the design was the Government's. Contract Line Item 0001 explicitly called for the Contractor to produce the detailed design for the T-AGS 39 Class ships. Special Provision H-37 of the contract also states:

"H-37. Additional contractor responsibility—Inasmuch as the T-AGS 39 Class Ship Specification, Contract Design, and Detail Design were developed by the Contractor, the Contractor assumes responsibility for their completeness, accuracy, adequacy, and compliance with the Circular of Requirements. In the event that there are any errors or omissions in the aforementioned specifications and designs, or in the accompanying plans that affect the detail design and construction effort, the Contractor shall correct such errors and omissions at the request of the Contracting Officer, with no increase in price."

Furthermore, the Contractor shall be responsible for ensuring that the ships as delivered to the Government comply with all applicable laws of the United States and with the regulations/standards (of governing regulatory bodies identified in the T-AGS 39 Class Ship Specifications and COR in effect as of March 22, 1985).

NCAB assessment. The NCAB believes that the Contractor was clearly tasked to develop the detail design package, and both the ship's design and the product were the Contractor's responsibility. The Navy evaluation of the proposal does not shift the risk to the Government. The proposal is for the Government's protection, and the purpose of the proposal is to satisfy the evaluations that the proposal meets the minimal evaluation criteria. Acceptance of a Contractor's proposal is not an implied Navy assurance that the proposal, as submitted, would produce the desired result, within the bid cost parameters.

The NCAB can find no basis to support the assertion that the Government warranted the proposal design to be adequate or suitable for the ship.

The NCAB finds that there was not a mutual mistake as to the significant specifications that BSC alleges. These are discussed sequentially in the DECISION.

(d) BSC alleges that under current contract policy, the contract would have been issued as a cost plus or fixed price incentive with a shareline since TAGS 39 is the lead ship of a new class.

NAVSEA RESPONSE. Regulations in effect at the time of solicitation and contract award did not preclude use of a fixed price contract. BSC did not question the contract type before award. BSC stated a willingness and ability to perform for the Price.

NCAB assessment. The NCAB finds that at the time the contract was awarded, the decision to use a fixed price contract with escalation for certain cost factors was proper and fully briefed and approved at appropriate levels. In fact, 10 USC 2306(c) requires that before a cost contract may be made, a determination must be made that such a contract is likely to be less costly to the Government than any other kind, or it is impractical to obtain the property or services except under such a contract. The Acquisition Strategy called for a fixed price contract with escalation, and that strategy was approved at appropriate levels. The NCAB does not consider a later change in policy which could preclude award of a particular type of contract to be a basis for reformation of prior contracts awarded before such a policy change.

The NCAB also finds that the circumstances indicate that BSC sought this

contract to maintain its Baltimore Marine Division's (BMD) operation. BSC pursued this contract with some determination, and there is evidence that BSC did not expect the contract to produce a return, but primarily sought to keep the shipyard viable. The facts are that BSC underbid the second lowest bidder by a considerable amount, some $40 million (about $26 million or 17 percent lower at the cost line.) BSC reduced its price by 5 percent for "modular construction," a construction method with which BMD had no significant experience, and bid "no profit" on the first new construction ship at the yard in a decade. The Navy was concerned with this bid, and with the ability of BMD to deliver at that price, that it requested and obtained a corporate guarantee from BSC for completion of the contract. In view of Bethlehem's determined effort to secure this contract, it appears unlikely that the fault of this procurement lies in the procurement vehicle.

(2) Preservation of the mobilization base.

BSC requests that relief be provided to support the mobilization base.

NAVSEA response. BSC's Baltimore Marine Shipyard is not essential to the national defense.

NCAB assessment. There appears no reason to support the shipyard on a mobilization basis. It is not currently building any ships for the Navy, and it is understood that the TAGS was its first new ship construction in over a decade. BSC announced in March 1989 that it was withdrawing from new construction and shifting to repair and overhaul. The 1988 Shipbuilding Production Base Analysis determined that closure of BSC and some other yards engaged primarily in construction of auxiliary ships would cause only a minor impact on new construction deliveries. Consequently, the NCAB finds that BMD is not essential to the national defense.

Areas asserted indicative of mutual mistake: BSC asserts that there were a number of specific issues that resulted in considerable rework and redesign, and the result was that the contract price was substantially exceeded. BSC stated in its claim to NAVSEA of October 23, 1989, and repeated in its January 3, 1991, submission to the Secretary, that the combined effect of the following areas illustrate the enormity of the mutual mistake and the difficulty of its correction. In forming an opinion on these technical issues, the NCAB relied on information from BSC, NAVSEA, and the Ship Technical Office in the Office of the Assistant Secretary of the Navy (Research, Development, and Acquisition.) The NAVSEA response is, as before, the NCAB's summary of the NAVSEA information provided to the Board.

(1) BSC request. "The main propulsion engines selected during the contract design effort had to be increased in size to achieve the power requirements needed to assure a 20-knot cruising speed." The proposal was based on two Colt/Pielstick Model PC–2 16 cylinder, 11,792 bhp engines. BSC alleges that it discovered that these engines would have insufficient power (apparently 25,000 bhp was needed), and four months after award, changed to two Enterprise/TransAmerica DeLaval RV–5 16 cylinder, 12,500 bhp engines, which weighed some 300,000 lbs more.

NAVSEA response. The COR specified only that the vessels were to be built with medium speed, American built diesel engines (COR Section 6.51). The choice of engines was with BSC, and BSC explicitly reserved its right to change engines. Contemporary documentation dated September 25, 1985, indicates that BSC unilaterally selected DeLaval "primarily due to schedule considerations." Switching, four months into the contract, to larger, heavier diesels, when all original planning had been done on the Colt engines, BSC brought these problems on itself.

NCAB assessment. The NCAB does not see this as an area of mutual mistake. It believes that the record is clear that BSC explicitly retained its option to change engines, and unilaterally exercised it. The NCAB also believes that the DeLaval engines were less expensive. While greater than anticipated delay and disruption may have resulted from use of the heavier and larger DeLaval engines, and resulting changes in the drawings, this was not a mutual mistake, but a result of a BSC management decision. Many of the resulting problems were clearly foreseeable once the decision had been made by BSC to change engines.

(2) BSC request. "The power take off [generator, "PTO"] required by the COR had to be eliminated because of space considerations and because PTO power demands would have required even larger main propulsion engines."

NAVSEA response. BSC's design agent, M. Rosenblatt & Son, prepared a Preliminary Draft Value Engineering Study eliminating the PTO generator, dated August 30, 1985. In turn, Bethlehem Steel submitted a Value Engineering Change Study Proposal (VECP) to the Navy to eliminate the PTO Generator on September 13, 1985. This VECP was ultimately approved, and Bethlehem shared in the cost savings by $288,299. The elimination of the PTO Generator was reflected in the Bethlehem preliminary drawings of October, 1985. The VECP did not indicate any problem relative to main propulsion engine horsepower as the basis for the VECP.

NCAB assessment. The NCAB does not see this as an area of mutual mistake. The VECP was submitted to obtain Navy concurrence for removal of equipment the function of which BSC concluded through engineering analysis could be performed through other means at a reduced cost.

(3) BSC request. "The main propulsion subbase, a massive structure which was to serve as a floating foundation for the two main engines, was drastically modified to suit Navy concerns about access and structural integrity, increasing the weight of the subbase by some 44 tons." Modification 6 to the COR issued during evaluation of the initial proposals, increased the requirements for HFN noise, and called for the addition of a flexibly mounted "rate" or engine subbase for the mounting of the main engines.

NAVSEA response. While it appears that the resultant attempt to engineer and install the subbase caused difficulty and delay, BSC requested an equitable adjustment, and by Contract Modification P00010 was awarded an additional $22 million for the subbase and other "covered events." The Navy also points out that BSC contributed to this delay. As an example, the COR required that there be sufficient space between the main machinery subbase and the hull to permit access for maintenance, preservation and painting. In general, the industry accepts as a minimum 18 inches. BSC proposed a subbase with only 6 inches of access underneath it.

NCAB assessment. While the problems relating to the subbase and the related access space caused BSC delay and disruption, BSC as a result of negotiation and a bilaterally executed modification, P00010, has been fully compensated. It also appears that the subbase problem was complicated by the engine switch and the elimination of the PTO generator, items in BSC's control.

(4) BSC request. "The foregoing changes required Bethlehem to undertake a complete machinery space redesign, which was not complete until six months into the contract."

NAVSEA response. Changes and redesign are to be expected as part of the design spiral. In all new ship construction, the initial drawings are not the final design drawings. Both the COR and the BSC prepared specifications contain the following definition of a Contract Guidance Drawing (the level available at contract award):

Contract guidance drawing—A drawing identified as a 'Contract Guidance Drawing' and which illustrates design features of the ship. A contract guidance drawing does not necessarily depict, nor is it intended to depict, all features and details of the systems and structures to which it relates. It serves the purpose of providing information which, when utilized in conjunction with applicable specification requirements and other information, may assist in detail design." Both parties knew, therefore, that the initial drawings did not represent the final detail design, and that design is worked out in a process called the "design spiral" through a reiterative process.

BSC's decisions on the PTO and engines were part of BSC's management prerogative in meeting the COR design. BSC contributed to its own design problems when four months into the contract it terminated its design agent, M. Rosenblat & Son, and brought the design in-house to BMD, which had not built a ship in a decade, and had no experience with modular new ship construction. This resulted in much of the rework mentioned in this and the succeeding items. It does not follow that the Navy is responsible for resultant delay and disruption, or that there was a mutual mistake.

NCAB assessment. The choice of the means of meeting contract requirements, in the case of the engines or the PTO generator, was with the Contractor. The Contractor clearly had discretion in meeting COR requirements, and had to make its own schedule and cost tradeoffs. While the NCAB agrees with BSC in that the addition of the unexpected subbase did cause it difficulty, it notes that BSC was provided $22 million as full compensation for the additional work by Modification P00010. The NCAB finds that by far the greater share of this rework resulted from a number of choices made by the Contractor: specifically, the engine swap, the decision to continue production before detailed design was completed, and a new and inexperienced design team.

(5) BSC request. "All of the piping diagrams had to be redesigned to suit regulatory body requirements, Navy requirements, and/or the machinery space rearrangements. This effort was not complete until nine months into the contract, and it forced Bethlehem to abandon a large part of its preoutfitting plans."

NAVSEA response. It is recognized that extensive rework of the piping and ventilation system was necessary and very costly in that bulkheads frequently had to be cut through in order to reroute pipes and vents. As previously noted, the initial contract guidance drawings were never intended to be the detailed design package. The COR clearly stated the ventilation system and piping requirements had to be met. BSC submissions contemporaneous with Amendment 10 to the RFP (Modification 5 to the COR), indicate that BSC had taken these requirements into consideration.

NCAB assessment. While there is evidence of delay and disruption, it appears that BSC

contributed significantly to the root problem of inadequate design, and rework.

(6) BSC request. "The HVAC [Heating, Ventilation and Air Conditioning] system had to be redesigned and increased in capacity to the extent that the number of fans increased by 30 percent and duct runs increased 50 percent."

NAVSEA response. The Contractor-developed HVAC Contract Guidance Drawings and the HVAC Specification in the Contractor's Best and Final Offer were found to be acceptable subject to the correction of minor deficiencies and further development of detail design. The COR and the BSC Specification noted, as quoted previously, that a contract guidance drawing is not a final detail drawing. It is therefore not possible to discern from the HVAC Guidance Drawings many of the detailed problems Bethlehem identified after award and attributes to defective Guidance drawings. Navy fans were specified in the COR because of their low noise characteristics. In general, insufficient detail was provided by the Contractor in this area to validate their allegations that they misunderstood HVAC requirements.

NCAB assessment. The HVAC redesign appears to be primarily a result of Contractor actions. The NCAB believes that the redesign resulted from BSC management decisions regarding its design and production efforts.

(7) BSC request. "Extensive revisions were required in the electrical system, including increasing the capacity of the generators, and making wholesale changes to the Electrical One-Line Diagram."

NAVSEA response. The one-line contract guidance drawing and electrical specifications section resulting from Best and Final Offers were found to be acceptable to NAVSEA, subject to correction of minor deficiencies and further development. Once Again, the COR and the Specifications contained the paragraph cited indicating that contract guidance drawings are not final detail drawings. Changes are expected in one-line electrical diagrams during detail design as actual equipments are purchased and locations of equipment are finalized. Changes may also be made for economic reasons as well as logistic ones.

NCAB assessment. The NCAB believes while the parties may disagree as to the necessity and degree of making the electrical system changes, it appears that these changes were part of the design spiral, and do not amount to mutual mistake.

(8) BSC request. "Substantial structural changes were required, including completely revising the bow lines to suit model tests which had to be delayed until six months into the contract due to David Taylor Naval Ship Research and Development Center scheduling conflicts."

NAVSEA response. The Contractor was aware that the initial design was not fixed. The contract requirements called for post award tank model testing which would be expected to lead to changes in the lines and steel requirements, as well as design development associated with the construction of models and mockups, such as those for the entire engine room and subbase. The tests indicated the need for changes in the lines and consequently, for changes in the requirements for structural steel. The requirements for performing post award powering, seakeeping and bow shape trade-off tank model tests as part of the design validation process were clearly defined in the COR and BSC prepared specifications. Any ship designer doing tank model tests on new ship designs could reasonably anticipate revisions to the lines and associated impact on structural steel requirements.

NCAB assessment. A reading of the COR would indicate that the precise vessel shape was to be determined based on model testing, which was to be completed subsequent to contract award. BSC should have recognized the risk BSC assumed by proceeding with production prior to completion of detailed design. The COR is clear. For example, COR, Section 6.1.4, discusses model testing, and Section 6.1.5(C) calls for the testing of "bulbous bow configurations." The COR requires at least two such configurations to be tested. It was BSC's decision to begin construction work before final detail design. As such, BSC must be said to have assumed the risk of redesign, which increased the amount of structural steel required and also resulted in some ship design modifications.

(9) BSC request. "A major, on-going research and development effort was required to meet the state of the art high frequency noise [HFN] limitations imposed by mission requirements, resulting in far-reaching changes in equipment and installation procedures applicable to virtually all auxiliary machinery." BSC contends that these efforts were far over what could reasonably have been anticipated. BSC states that it had to individually test over 150 pieces of equipment to determine their HFN characteristics, and ultimately units were mounted on resilient padded mounts and acoustic tile was installed on the ship to dampen sound transmissions. Waivers were also requested and granted for certain equipments.

NAVSEA response. As this was an oceanographic survey ship, which would use sonar for mapping the ocean bottom, at relatively high speeds, it was obvious to both the Navy and BSC from the beginning that the specifications contained HFN limitations. Indeed, the solicitation called for plans to demonstrate that satisfactory noise levels were achievable, and BSC provided such plans. It can hardly be said to have been surprised. The scope of HFN problems were not different than what BSC could have anticipated. BSC had included HFN studies in its proposal and the studies submitted by BSC's design agents did not differ significantly from Navy estimates of HFN limitations necessary. Prior to BFO's the offerors were well advised as to HFN levels and offerors were advised by NAVSEA letter that the successful offeror would be called upon to select appropriate compliance testing procedures for on board equipment.

It may be true that the final HFN parameters were difficult to ascertain at the time of contract award, but this is a matter of design maturity, which all offerors understood. Some offerors did state that it was impractical to prepare detailed noise and HFN treatments until the detail design had been accomplished, and at that time only calculations based on general acoustic principles, and hull designs could be produced. The Navy accepted the general treatments in the proposals but offerors were not relieved at that time of the contractual obligation for developing and meeting final parameters. This was true not only for HFN, but also for related acoustic studies for airborne noise, and vibration studies.

NCAB assessment. The NCAB finds that the parties were aware of the need for HFN considerations from the start. While the offerors may have had some difficulty in pricing this aspect, and BSC was surprised when it was required to test over 100 individual equipments for HFN noise, this was not a mutual mistake but rather a required effort that BSC should have been prepared to make to meet contract parameters. During contract performance, the HFN standards in the COR were reduced from "requirements" to "goals" by contract modification P0006. It does not appear that meeting the parameters was impossible, only that meeting the parameters was difficult and required individual testing of equipments. BSC has estimated a cost about $640,000 for HFN problems in Volume IV, p. 33-34, of the BSC claim. The NCAB has no basis to conclude that this was an unreasonable amount which BSC should have provided for in its proposal. These events are also included in the mutually agreed release language of P00010. The NCAB concludes that BSC has been compensated for any additional effort incurred in meeting HFN requirements.

(10) BSC request. "Procurement of equipment and machinery was delayed and disrupted due to changes in system capacities or other requirements flowing from the foregoing items, as well as the need to comply with stringent electromagnetic interference [EMI] requirements (which are unknown to commercial vendors) and which are incompatible with commercial equipment."

NAVSEA response. EMI parameters were in the COR and BSC had anticipated them in its proposal. As in the case of HFN, EMI requirements are an expected parameter in designing vessels of this type. As HFN, offerors were advised of EMI parameters and submitted plans to meet them.

NCAB assessment. Delay and disruption has been treated before. The NCAB finds that EMI parameters were in the COR and that BSC could reasonably have anticipated them. It finds that EMI is also a covered event under the release language of Modification P00010 and that BSC attributes $681,000 to EMI efforts in Volume IV, p. 42, of its claim. The NCAB also finds this well within the range that a Contractor should have anticipated in its proposal.

Decision: The NCAB is well aware of the body of Government contract law on mutual mistake and commercial impracticability. The NCAB is not, however, a judicial forum to decide legal issues; it is impaneled to see if extraordinary contractual relief should be provided under the guidelines of FAR Part 50. If BSC has a valid legal claim, there are alternate forums available, and BSC has in fact filed a claim with the Claims Court. Nevertheless, even though the NCAB is not bound by case law, it has considered existing case law as a guide for considering the fairness issues raised in the BSC request.

The NCAB believes that the case law indicates that in order to prevail on a issue of mutual mistake, BSC must demonstrate that a mistake exists as to a fact or assumption that was fundamental to the contract at the time it was executed; that both parties made the same mistake as to the same fundamental fact or assumption; that this mutual mistake was material; and finally, that BSC did not assume the risk of the mistake.

The NCAB does not believe that BSC has satisfied this test under existing legal criteria. It appears to the NCAB that there was no mutual mistake by the parties and that BSC assumed the risk of performance. Both of these conclusions would block legal recovery. The Board must go one step further, and decide whether the contract should be adjusted under FAR Part 50. The mere fact that a loss is suffered is not sufficient. The Board has sought evidence of some Government action which while not creating any liability on the part of the Government, would have unfairly increased the Contractor's

costs. We have previously discussed in detail the areas that BSC has asserted as indicative of mistake. We have concluded that there was no mutual mistake, nor any unfair Government action, but rather a unilateral cost or effort estimation mistake on the part of BSC. Unilateral cost estimation or effort estimation mistakes on the part of fixed price contractors are not considered by the NCAB as an appropriate basis for relief under a fairness standard.

There are numerous factors which indicate that BSC assumed the risk of performance. BSC was aware, or should have been, of the risks involved. BSC had adequate opportunity to review the COR specification which contained the requirements BSC is now alleging as mistake or as impractical. The BSC proposal identified these areas and presented an acceptable understanding of the problems involved. Despite this, BSC aggressively bid the contract, and BSC provided the Navy with a corporate guarantee to assure award. These factors indicate that BSC had knowledge, had opportunity to inquire, and deliberately chose to accept the risk.

During contract performance, the parties executed a bilateral modification to the contract, P00010, which released the Navy from all post award contract claims, except it preserved to BSC the right to make a claim for reformation based on events before and at contract award. The relevant language from that contract modification is:

Contract Modification P00010, dated February 29, 1988 [Paragraph] D. EXCEPTIONS:

(1) Except for the items designated below, the Contractor's release set forth in this modification is complete and final with respect to Covered Events, no rights are reserved under this modification and, in any event, any and all such rights shall be deemed to have been waived without exception. . . .

(a) . . .

(b) A request for reformation of this contract on the basis of a mutual mistake and/or other legal and equitable principles arising out of events which occurred on or before contract award which request has been discussed generally between the parties and is referred to in a letter from Bethlehem to the Navy dated June 8, 1987, and a September 1987 submission to the Navy titled 'Bethlehem T-AGS Position Paper.' This request can be made pursuant to either the Contract Disputes Act of 1978, or Public Law 85-804, Extraordinary Contractual Relief. The facts underlying the below listed actual or potential Requests for Equitable Adjustment (REAs), which such REAs have been discussed by the parties, may be relied upon in pursuing a claim for reformation of the contract as described above. Except to the extent provided herein, the facts supporting the below listed actual or potential REAs are considered "Covered Events" and are included within the scope of this release.

(a) State of the Art High Frequency Noise Limits;

(b) Subbase Improved Access;

(c) Impractical Electromagnetic Interference Requirements;

(d) Mission Management Area Design Problems;

(e) Subbase Structural Strength Changes; and

(f) Special HVAC [Heating, Ventilation, and Air conditioning] Acoustic Treatments.

Public Law 85-804 relief is without consideration, and is not bound by Modification P00010, however, the NCAB in being guided by principles of fairness should not compensate a Contractor for changes for which it has already been compensated. We accordingly take this modification at face value, and look only at BSC's position prior to award, to see if there was a mutual mistake, or if the inappropriate contract type was used.

The NCAB finds that at the time the contract was awarded, the decision to use a fixed price contract with escalation was proper and briefed and approved at appropriate levels. The contract provided for escalation in the event of cost increases (based on specific indexes) to enumerated categories of labor and materials. At the time of the solicitation, no offeror took issue with either the type of contract or the use of a COR. The NCAB does not consider a change in contracting policy which might preclude the award of a particular contract type or format at a later time to be a basis for reforming prior contracts.

The NCAB believes that the COR procurement technique was appropriate for this procurement. The Navy has used a COR technique frequently with success for several specialized noncombatant vessels. The experiences of other contractors with COR procurements indicates that there is nothing inherently wrong in using a COR technique and indeed, it seems to work well with auxiliary vessels. While BSC states that TAGS 39/40 are significantly more complex than others built using the COR technique, the NCAB does not believe that those arguments invalidate the decision to use the COR technique. While T AGS 39/40 are larger than those typically built using the COR technique, and they are new construction as opposed to conversion from prior construction, BSC cannot claim to be surprised by this knowledge. BSC knew these facts at contract award. And most significantly, BSC did not object before award to the use of a fixed price with escalation contract, or the use of a COR procurement technique.

BSC also did not object to the length of time provided for proposal preparation. The NCAB finds from the contemporaneous record, that the length of time was not an issue in this procurement. The offerors had 55 weeks from issuance of the preliminary COR to BFO, which should have been adequate. While Modification 6 to the COR, incorporating the subbase, may have come late in the process, and its incorporation did lead to some ultimate delay and disruption, BSC was compensated for these expenses by Modification POOO10 to the contract which awarded BSC $22 million for subbase problems and granted the Navy a release of all post-award claims.

The NCAB believes that there was no issue of mutual mistake regarding the contract requirements. Rather it was clear what the Navy wanted and the contract explicitly placed responsibility for contract design on the Contractor. The RFP required the Contractor to develop ship specifications and a contract design which the Contractor would later use to develop a detailed design and build the ships. Responsibility for completeness, accuracy and adequacy of ship specifications, contract design and detailed design was the Contractor's as specifically stated in clause H-37 of the contract. Navy review of the Contractor's proposal was not intended to validate the design but only to check for compliance with minimum COR requirements. Navy review of the proposal did not shift the responsibility for the design from the Contractor to the Navy.

The NCAB also finds that BSC actions to win the contract contributed to the ultimate overrun. BSC aggressively bid to obtain the contract and was left without any management reserve. In fact, after being questioned on the reasonableness of its costs during discussions, BSC dropped its price even further at best and final offer and deleted all profit. BSC at BFO underbid the next lowest bidder by $40 million (about $26 million or 17 percent lower at the cost line, i.e. without profit), with a 5 percent reduction for "modular construction" (a construction method with which BSC had only limited experience), and bid "no profit" on the first major new construction at BMD in about ten years. Clearly, BSC could not realistically expect to produce a positive return on this contract, and there is evidence that BSC anticipated that this contract would incur a small loss. The Navy did not stand by idly while BSC continued to cut costs from its proposal. It questioned BSC closely about its costs, and finally, before awarding BSC the contract, required BSC to provide a corporate guarantee of performance. Clearly, the Navy at contract award insisted that BSC, with its corporate resources, guarantee that Baltimore Marine Division would successfully complete this contract. While BSC minimizes the importance of this guarantee, stating that since BSC signed the contract, not BMD, that BSC in any event would have been liable, the NCAB believes the corporate guarantee to be significant. It represents contemporaneous evidence that the Navy had concerns about the price bid, and it represented BSC's deliberate commitment to perform at the reduced BFO price.

The NCAB further finds that unilateral BSC management decisions during performance contributed to the cost growth. Approximately 10 weeks into the contract, BSC changed to heavier, larger engines necessitating expensive changes in machinery arrangement, support structures and related equipment. Four months into the contract, BSC dismissed M. Rosenblatt as its design agent and attempted to do the design in house with new and inexperienced personnel. At this point, when design problems indicated a hold on production effort was in order, BSC chose to continue production activity concurrently with design activity.

The NCAB has reviewed in detail the ten items that BSC alleges represent areas of mutual mistake. Of the first three items, the engine switch, the PTO, and subbase, the first two items represent management decisions whereas the third represents a Government change to the specification for which BSC has been fully compensated. Each choice impacted the other, as item four represents the delay and disruption attributable to the first three. The NCAB does not believe any of these items illustrate mutual mistake.

Items five, six, and seven are delay and disruption items to the various shipboard electrical, ventilation, and piping systems. The NCAB believes that this delay and rework resulted from the choices made by BSC, and the inability of BSC to rapidly react with new designs to a fluid situation. BSC's new and inexperienced staff needed time to prepare the design, and BSC's decision to continue construction activity led inevitably to major rework. BSC's low bid included no margin for rework or redesign, and as a result this area magnified the losses already accumulated.

Items eight, nine and ten, the ship lines, high frequency noise (HFN) and electromagnetic interference (EMI) were obviously design spiral items. The NCAB finds these requirements to be stated in the COR, and that post award design effort would be required to

satisfy the requirements. It should have been anticipated that additional ship modeling would be needed, and that HFN and EMI parameters would have to be developed and tested. In conclusion, a lengthy review of the areas asserted to indicate mistake, reveals a situation driven not by mutual mistake but by an underestimation of work necessary to satisfy the design spiral inherent in new ship construction.

The NCAB has found this to be a very difficult case. The facts and circumstances presented by BSC include a number of compelling elements and have prompted us to conduct an extensive series of meetings, interviews and written exchanges with both BSC corporate officials as well as Navy representatives. BSC took on an ambitious ship construction project and completed it despite enormous losses. This is to BSC's credit as a corporation. After much deliberation, the NCAB concludes that BSC committed itself to no less with its corporate guarantee of performance. While both parties were surprised by the difficulty of the engine mounting problems, and some of the efforts necessary to meet HFN and EMI requirements, those issues were addressed and settled between BSC and NAVSEA. The NCAB believes that BSC was fully compensated for changes after award by Modification P00010 for $22 million and should not be compensated again for these changes.

The NCAB can find no evidence to indicate that the Government was either unfair, or that Government action or inaction contributed to the loss, except for the areas already compensated for under Modification P00010.

The NCAB finds that BSC has not produced any documentation or significant evidence to support its request for relief based on maintaining the mobilization base. There is no reason to maintain the shipyard for new construction purposes as an element of the mobilization base. The TAGS construction was its first new ship construction in about a decade. BSC announced in March 1989 that it was withdrawing from new construction and shifting to repair and overhaul. The 1988 Shipbuilding Production Base Analysis determined that closure of BSC and some other yards engaged primarily in construction of auxiliary ships would cause only a minor impact on new construction deliveries. Consequently, the NCAB agrees with the NAVSEA position that BMD is not essential to the national defense.

The request for relief is denied.

Contractor: Bahrain Defense Force.

Type of Action: Formalization of Informal Commitment.

Actual or estimated potential cost: $11,434.

Service and activity: Bahrain Defense Force Air Base in Shaikh Isa, Bahrain.

Description of product or service: Subsistence support.

Background: In early August 1990, as part of the 7th Marine Expeditionary Brigade, Marine aircraft Group 70, Operation Desert Shield, elements of the Third Marine Aircraft Wing rapidly deployed to Southwest Asia. Arrangements were made for an operational site at the Bahrain Defense Force (BDF) Air Base in Shaikh Isa, Bahrain.

Advance party personnel arrived without the capability to establish subsistence support due to the immediate nature of their deployment. Liaison with the BDF was made to procure subsistence support for Marines and other U.S. Forces personnel. The BDF agreed to provide this support in their officer's Mess and Enlisted Mess Hall. No other subsistence was available for U.S. Forces.

A rapid and enormous increase in personnel utilizing these facilities necessitated expansion of services and a heavy reliance on commercial vendors. No formal contract actions were effected for subsistence support due to the understanding of MAG–70 personnel that subsistence was to be provided as part of a "Host Nation" agreement.

After several months it was realized that subsistence was not going to be provided by the BDF under a Host Nation Agreement. This prompted the implementation of contract actions by U.S. personnel and contract ratification actions to remedy the situation where supplies and services were received without formalized contract procedures in place. Ratification actions totaled approximately $5.5 million with 18 vendors. However, the subsistence which is a part of this extraordinary contract relief was not part of a contract or ratification.

In the instance of the previous ratification, and this extraordinary contract relief action, the BDF acted in the capacity of a vendor. The portion of the prior ratification involving BDF resulted in a payment to BDF of $614.55 on June 14, 1991. The subsistence involved here was not part of that ratification.

Justification: At the time of the ratification, DBF indicated that there were additional outstanding invoices. These 50 invoices, totaling 4266.600 Bahrainian Dinars, or $11,434.49 were received by Headquarters Marine Corps in February 1992. Marine Corps accounting records do not reflect these invoices as having been paid.

It is impossible to determine who ordered the subsistence in question, whether it was used exclusively by U.S. Forces, and where any excess, if any, is presently located. However, statements prepared by personnel familiar with the U.S. buildup in Bahrain, as well as a telephone conversation with the former Chief, Office of Military Cooperation, American Embassy, Bahrain, substantiate that, with the exception of two invoices, numbers 37 and 38, these supplies were used in direct support of subsistence for U.S. personnel.

BDF invoices number 37 and 38 are dated June 25, 1990. These represent purchases of bottled water and "sterno type" fuel cans used to heat food in a serving area. The total dollar value of these two invoices is approximately $50. Signatures on these invoices as well as the type of items are consistent with those seen after August. Even though it is unclear whether these items were used in direct support of U.S. forces, it will facilitate the National Defense to pay these invoices. The negligible amount of money involved ($50) is insignificant when compared with the adverse impact caused by poor relations with Bahrain.

This matter has become a serious concern to the BDF with the American embassy caught in the middle trying to maintain good relations with Bahrain.

Nonpayment of these invoices is having a negative impact on relationships between the U.S. Government and the Government of Bahrain and on current negotiations between representatives of the American Embassy, Office of Military Cooperation, and the Bahrainian Government.

Accordingly, payment of the invoices will facilitate the National Defense.

No other legal authority within the Marine Corps allows for payment of the invoices.

Decision: It is determined that the Bahrain Defense Force Officer's Club should receive payment for subsistence support under the provisions of the Federal Acquisition Regulation Part 50 to facilitate the National Defense.

Contingent liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from, nuclear radiation, use of high energy propellants, or other risks not covered by the Contractor's insurance program were included in these contracts; the potential cost of the liabilities cannot be estimated since the liability to the United States Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause. Items procured are generally those associated with nuclear-powered vessels, nuclear armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Contractor:

	Number
Hughes Aircraft Company	4
Kearfott Guidance and Navigation Corporation	3
Litton Systems, Inc	1
Thiokol Corporation	1
Paramax Systems Corporation	2
Rockwell International Corporation	2
Interstate Electronics Corporation	2
Raytheon Company	5
Westinghouse Electric	5
Lockheed Missiles and Space Company	6
General Electric Company	4
General Dynamics Corporation	3
McDonnell Douglas Missile Systems Company	1
Newport News Shipbuilding and Drydock Company	1
Connaught Laboratories, Inc	41

DEPARTMENT OF THE AIR FORCE

Contractor: Pacific Architects and Engineers (PAE).

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $10,824,721.

Service and activity: Zaragoza Air Base (AB) Spain.

Description of product or service: Maintenance and operation of Zaragoza AB, Spain.

Background: PAE, the base maintenance and operations Contractor at Zaragoza AB, Spain, has requested relief under Public Law 85–804 to permit reimbursement of severance pay required by Spanish law for employees terminated as a result of the closure of Zaragoza AB. The request is for a contract adjustment to amend without consideration Contract No. F61521–91–5005, the Spanish Base Maintenance Contract (SBMC).

The SBMC is a cost reimbursement award fee type contract which was awarded by the U.S. Air Forces in Europe (USAFE) to PAE on May 17, 1991. The estimated cost and maximum award fee for the basic year (fiscal year 1992) are $27 million and $1.1 million, respectively. The contract contains the clause at FAR 52.237–8, which the USAFE contracting officer has determined precludes the reimbursement of severance payments to local employees beyond amounts which would be payable to employees in the U.S. in similar employment circumstances. This clause is contained in the contract as directed by FAR 37.110(f), which implements the requirements of 10 USC 2324(e)(1)(M).

10 USC 2324(e)(1)(M) states as follows:

. . . (e)(1) The following costs are not allowable under a covered contract: . . . (M) Costs of severance pay paid by the Contractor to foreign nationals employed by the Contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid

in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under regulations prescribed by the Secretary of Defense . . .

FAR clause 52.237-8 states in pertinent part:

. . . Costs of severance payments to foreign nationals employed under a service contract or subcontract performed outside the United States are unallowable to the extent that such payments exceed amounts typically paid to employees providing similar services in the same industry in the United States . . .

The SBMC contract was the first covered contract to be awarded by USAFE after the severance cost allowability limitation imposed by 10 USC 2324(e)(1)(M). FAR clause 52.237-8 was present in the solicitation for the SBMC. Prior to contract award a potential offeror requested clarification of the impact of this clause on the allowability of severance costs. The contracting officer's written response was provided to all potential offerors, including PAE. From this exchange, the contracting officer believes there should have been no ambiguity that severance costs beyond those payable to employees in the U.S. under similar employment circumstances would be unallowable. However, the benchmark "typical" severance pay entitlement in the U.S. was not known at that time. In these circumstances, the only other offeror refused to accept the inclusion of FAR clause 52.237-8 in the contract and was therefore eliminated from the competition.

Prior to the award to the SBMC, Zaragoza AB was scheduled to enter standby status sometime after September 1991. This was public information which was known, or should have been known, to PAE. However, the decision to completely close Zaragoza AB was not made until after contract award. Since neither the decision to close Zaragoza AB nor the date for Work for the SBMC was not adjusted to reflect any reduced effort required on this account.

On July 31, 1991, the Air Force announced its decision to completely close Zaragoza AB by September 30, 1992. As a result of the base closure PAE must terminate the employment of approximately 486 Spanish nationals. Consistent with applicable Spanish law and labor practices, employers and employees must agree to the terms of the termination, including severance pay entitlement, before the employees may be terminated. If agreement cannot be reached, the employer must submit its severance offer to Spanish labor authorities for approval. Until agreement is reached or the employer's offer is approved, the affected employees must be paid their normal wages. The SBMC requires PAE to comply with all local, host country laws, including those regarding wages and other employee benefits. Since the SBMC is a cost reimbursement contract, such wage costs will be paid by the Air Force, provided they meet the requirements of applicable cost principles and the terms of the contract for cost allowability.

After receipt of notice of the closure of Zaragoa, PAE began negotiating with the employee union to reach agreement on the severance pay entitlement as required under Spanish law. Spanish law permits workers a severance benefit equivalent to between 20 to 60 calendar days for each year of employment. PAE estimates the ultimate severance entitlement arrived at through negotiation to be 45 days at an estimated additional cost of approximately $18 million. However, in connection with the recent termination of Spanish employees of the Spanish Ministry of Defense working at Zaragoza AB and Torrejon AB, the final severance entitlement agreed to by the employees was 30 calendar days per year of employment.

At the request of the SBMC contracting officer, DCAA surveyed U.S. severance practices and determined that one week severance pay per year of employment is customary in the U.S. This is in comparison to a severance pay entitlement under Spanish law of between 20 to 60 days pay for each year worked. Therefore, as a result of the closure of Zaragoza AB, PAE will be required by Spanish law to incur substantial severance costs which, if relief is not granted, will not be reimbursable under the terms of the contract. If 30 days per year of employment is the ultimate severance entitlement, the non-reimbursable costs of severance pay would be an estimated $12 million. Most of the severance entitlement was accrued by employees working at Zaragoza over many years prior to the enactment of 10 USC 2324 (e)(1)(M) and would not have been expressly unallowable under previous contracts which did not contain FAR clause 52.237-8.

PAE's negotiations with the employee union have focused on the number of days severance entitlement. These negotiations have not been productive. One reason for the lack of progress is because PAE has made only offers that are contingent on the reimbursement of severance costs under the SBMC. PAE asserts it does not have the financial capacity to pay the severance costs required by Spanish law if these costs are not reimbursable, and that it therefore cannot make a severance entitlement offer which is beyond its ability to pay.

PAE asserts that since it does not have the financial capacity to pay the unreimbursed severance costs, it will be unable to terminate employees to meet the schedule for closure of Zaragoza AB and will be unable to continue performance of the contract. The lack of progress in negotiations with the union has already resulted in labor unrest due to the employees' fears of being denied severance pay to which they are entitled under Spanish law. If severance costs are not reimbursable, PAE predicts further, perhaps more serious, labor unrest which could threaten the operations of other U.S. facilities in Spain, risk damage to U.S. property and pose a hazard to U.S. personnel in Spain. PAE further predicts complex and protracted litigation between and among U.S., PAE, Spanish employees and the Government of Spain as well as a negative impact on relations between the U.S. and Spain if severance costs required by Spanish law continue to be non-reimbursable. Based on extensive firsthand knowledge of the situation, cognizant contracting and operations officials of USAFE, including the Commander in Chief, concur with PAE's predictions and recommend granting the requested relief.

Justification: The Air Force has authority to grant the requested relief under Public Law 85-804, 72 Stat. 972, codified at 50 USC 1431-1435, as amended, and Executive Order 10789 as amended. This law, as implemented, gives the Secretary of the Air Force or his authorized representative the authority to enter into or amend contracts without regard to provisions of law relating to the making, performance, amendment or modification of contracts, in order to facilitate the national defense. This authority is implemented through provisions of FAR Part 50, DFARS Part 250, and AFFARS Part 5350. By Secretary of the Air Force Order No. 640.11, the Secretary of the Air Force has constituted and delegated authority to the Air Force Contract Adjustment Board (AFCAB or Board) acting in accordance with the FAR and DFARS, to approve, authorize and direct appropriate action, or to deny, all requests for relief under Public Law 85-804.

Decision: PAE requests amendment of the SBMC to make severance costs required by Spanish law allowable costs under the contract, not withstanding the provisions of the clause at FAR 52.237-8, which the contracting officer has determined limits the reimbursement of severance costs to amounts customarily paid to employees in the U.S. in similar employment circumstances. PAE claims entitlement to relief under the provisions of either FAR 50.302-1(b) for amendments without consideration of FAR 50.302-2 for correction of mistakes.

FAR 50.102(a) provides that relief may not be granted unless other legal authority within the agency is lacking or inadequate. The contracting officer has concluded that the contract does not permit reimbursement of the severance costs in question and that as a result the USAFE contracting officer is without authority to accept PAE's assertion that the costs are reimbursable under the contract.

PAE could submit a contract claim under the Disputes procedures of the contract. This would require the issuance of a formal contracting officer's decision denying the claim, which could then be appealed to the Armed Services Board of Contract Appeals (ASBCA). The ASBCA should rule against PAE based on unambiguous contract provisions making the severance costs in question clearly unallowable. Even if PAE were to prevail in appeal to the ASBCA, the matter could not be resolved in time to prevent the serious impacts described by PAE and USAFE as the probable result of continued non-reimbursement of the severance costs required by Spanish law. Further, PAE has asserted that if the severance costs are not permitted to be reimbursed, it would cease contract performance, with the possible consequence of extensive and prolonged multiparty litigation. As a result, other possible avenues of redress are either outside the agency, unlikely to permit relief, or incapable of providing a timely resolution of this matter. Therefore, other legal authority with the agency, as contemplated by FAR 50.102, is lacking or inadequate.

The requested relief may only be granted based on a finding by the AFCAB that the contract adjustment will facilitate the national defense. Providing for fair and equitable treatment of contractors facilitates the national defense by helping to assure an adequate supply of defense contractors willing to bid on and perform future defense contracts. Granting of relief which permits performance of, or avoids negative impacts on, defense contracts and Defense Department overseas operations also facilitates the national defense.

PAE's request for relief asserts correction of an obvious mistake as a possible basis for granting the requested relief. A contract adjustment may be granted for the purpose of correcting a mistake such as a failure of the written contract to express the parties' true intent, an obvious unilateral mistake or a mutual mistake of both parties as to a material fact. However, while USAFE recommends granting relief to PAE on other grounds, it disagrees that a mistake was made of the nature required to permit relief as contemplated by FAR 50.302-2. The preaward question raised by another offeror on

the impact of the contract provisions concerning limitations on reimbursement of severance costs, and the USAFE response to the question which was provided to PAE, lead to the conclusion that any "mistake" involved assumptions as to the likely occurrence of a mass severance event rather than a mistake as to the allowability of such severance costs, as alleged by PAE in its request for relief requested on the basis of an alleged mistake is not warranted in the circumstances.

As a separate basis for relief, PAE cites the provisions of FAR 50.302-1(b) for granting an amendment without consideration based on action by the Government. It is on this basis that USAFE recommends granting the relief requested by PAE. Applicable portions of FAR 50.30 2-1(b) are as follows:

. . . When a Contractor suffers a loss (not merely a decrease in anticipated profits) under a defense contract because of Government action, the character of the action will generally determine whether any adjustment in the contract will be made, and its extent. When the Government directs its action primarily at the Contractor and acts in its capacity as the other contracting party, the contract may be adjusted in the interest of fairness. Thus, when Government action, while not creating any liability on the Government's part, increases performance costs and results in a loss to the Contractor, fairness may make some adjustment appropriate . . .

This Board finds that the three required elements for relief on the basis of government action are present. First, PAE stands to suffer a substantial loss if it is not reimbursed for the costs of severance pay required by Spanish law. The SBMC is a cost plus award fee contract with a potential award fee of approximately $1.1 million compared to an estimated $12 to $18 million deficit between what Spanish law will likely require PAE to pay and what the contract as it now stands will permit to be reimbursed. Second, the loss to PAE will result from the Government's action in closing Zaragoza AB, and disallowing most of the costs of severance pay required to be incurred by PAE under Spanish law. Third, it would be unfair not to reimburse these severance costs which, for the most part, have accrued over many years before the present contract was executed and for which the Government has received at least an indirect benefit.

After careful consideration of the unique circumstances involved in this matter, the Board finds it necessary and appropriate to grant some measure of relief to PAE. Relief will facilitate the national defense by avoiding the serious negative impacts on performance of the SBMC, the schedule for closure of Zaragoza AB, and defense operations in Europe, which will be caused by continued nonreimbursement of severance costs. These negative impacts include, but may not be limited to, delays in closing Zaragoza AB, labor unrest which may pose a hazard to U.S. defense operations, property, and personnel, deterioration of relations with the Government and people of Spain, and the potential inability to contract for essential services in the future.

However, from the perspective of this Board, PAE bears some responsibility, although not total responsibility, for the present difficult situation, in that PAE knowingly and willingly entered into the SBMC contract containing the severance cost allowability provisions from which PAE now seeks relief. In these circumstances, equity requires not only protection of PAE against unfair cost disallowance, but also recognition of the legitimate interests of the U.S. and those other potential offerors which chose not to accept the risks willingly undertaken by PAE.

This Board finds that permitting the reimbursement of reasonable severance costs, limited to not more than 30 calendar days severance pay for each year of employment, will provide sufficient relief to PAE and will be adequate to facilitate the national defense. This 30 day severance entitlement is considered reasonable by the Board in view of the previous successful negotiations with Spanish employees of the Spanish Ministry of Defense working at Zaragoza AB, and is consistent with PAE's prior settlement offers. If PAE finds it necessary to agree to more than 30 days severance entitlement in negotiations with Spanish employees, any such severance costs in excess of a total of 30 days per year of employment will be unallowable and will be born by PAE.

In addition, the following conditions and restrictions apply to the reimbursement of severance costs described above:

1. The 30 day severance costs considered reasonable by this Board is the total reimbursable amount, including the 7 days previously determined by the DCAA to be typical for similarly situated employees in the U.S.

2. No fee, profit, overhead or other burden will be applied to the entire 30 days severance costs granted herein. This restriction applies to all severance costs of Spanish employees at Zaragoza AB, including the seven day entitlement found by the DCAA to be typical in the U.S.

3. The amendment of the SBMC authorized by this decision will be an Accord and Satisfaction as to all Spanish national severance costs related to the SBMC at Zaragoza AB. PAE will release the U.S. from any and all claims whatsoever, related to the costs of severance of Spanish employees at Zaragoza AB, including, but not limited to, any claims or charges for attorney's fees or other costs of pursuing this request for relief, or otherwise pursuing a decision by the Government on the allowability of such severance costs.

The SBMC contracting officer is authorized to amend the SBMC as needed to implement this decision, subject to the above stated conditions and restrictions.

All members of the Board concur in this decision.

Contractor: Mekel Engineering, Inc.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $485,028[1]

Service and activity: Unknown.

Description of product or service: Unknown.

Contingent liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the Contractor's insurance program were included in one contract; the potential cost of the liabilities cannot be estimated since the liability to the United States Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause. Items procured are generally those associated with nuclear-powered vessels, nuclear-armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Contractor:

	Number
General Dynamics/Convair Division	1
CRAF (Samolia, Operation Restore Hope)	1
	[1]2

[1]An additional indemnification was approved; however, the Air Force has deemed it to be "CLASSIFIED," not subject to this report's purview.

DEFENSE LOGISTICS AGENCY

Contractor: Yeargin Sales, Inc.

Type of action: Amendments Without Consideration.

Actual or estimated potential cost: $15,707.88.

Service and activity: Navy Regional Contracting Center, Office of the Secretary of Defense, the Military Services, and Other Defense Agencies, Washington, D.C.

Description of product or service: Cable, Telephone, NSNs 6145-01-022-8212 and 6145-01-022-8213

Background: The Contractor is H. Yeargin Sales, Inc. (Yeargin), 107 Susan Lane, Circleville, New York 10919-9719. Contract DAL500-85-C-4880 was awarded by the Defense Industrial Supply Center (DISC) to Yeargin on September 30, 1985, for a quantity of 16,000 feet of cable telephone, National Stock Number (NSN) 6145-01-022-8212, at a unit price of $1.888 and a total contract amount of $73,632.00. Purchase Order DLA500-86-M-B705 was issued by DISC to Yeargin on November 15, 1985, for 2,000 feet of cable telephone, NSN 6145-01-022-8213 at a unit price of $6.01845 and a total amount of $12,036.90.

Under the two contracts and one purchase order (hereafter referred to as "the contracts"), Yeargin purchased foreign supplies, which were imported from Spain. The date of importation was June 26, 1986. In July 1986, Yeargin filed an entry in Baltimore, Maryland claiming duty-free entry under Tariff Schedules of the U.S. Annotated (1986) (TSUSA) Item Number 832.00. On February 2, 1987, U.S. Customs Service, Baltimore District, issued a notice to Yeargin that the articles were dutiable at 5.3 percent because duty-free certification had not been received. Yeargin sent copies of DD Forms 250 to Customs in Baltimore by letter of February 25, 1987. Customs responded to Yeargin on March 3, 1987, that "entry cannot be liquidated free of duty unless and until duty-free certificate from the Defense Contract Administration Services Region (DCASR) is furnished." Yeargin asserts that it responded to Customs by letter dated March 27, 1987, stating that it was securing and forwarding required documents to Defense Contract Administration Services Management Area (DCASMA), New York for issuance of the Certificates.

Customs denies having received this letter. By letter dated June 4, 1987, Yeargin forwarded a Form 7501 to the Administrative Contracting Officer (ACO) at DCASMA. The entry was liquidated by Customs on June 26, 1987, at 5.3 percent. A supplemental duty bill was issued for $9,037.35. DCASR, New York issued Certificates of Duty-Free Entry on December 23, 1987, and again on June 27, 1988 to Alltransport, Inc., the designated customhouse broker for Yeargin. The Baltimore customs district received the Certificates on June 30, 1989. By check dated June 22, 1989, Yeargin's surety had paid the U.S. Customs Service $11,007.88, for duty and interest.

Justification: Yeargin wrote to the ACO on June 22, 1989, asking for assistance; the

[1]The Contractor withdrew its February 27, 1992, application for extraordinary contractual relief under Public Law 85-804 without either approval or denial by the Government.

International Logistics Office at DCASR then wrote to Customs on June 30, 1989, forwarding copies of the Certificates and requesting reliquidation. Also in June 1989, Yeargin sought assistance from Congressman Benjamin A. Gilman. Customs' response to correspondence from Representative Gilman was to aver that no remedy was available to Yergin because all deadlines for protests and appeals had passed. By letter dated June 1, 1990, addressed to both the ACO at DCASMA and the U.S. Customs Service, Regional Commissioner of Customs, Boston, Yeargin requested relief under Public Law 85–804 in the amount of $11,007.88 plus $4,700 for overhead and time spent by Yeargin in attempting to resolve the matter. In its January 28, 1992, letter to Defense Industrial Supply Center (DISC), Yeargin refers only to the $11,007.88 figure.

Decision: Under the authority delegated to the Assistant Counsel by the Commander, DISC, by Inter-Office Memorandum dated October 28, 1991, it is hereby decided that Yeargin is not entitled to the relief it has requested under Public Law 85–804. The decision is based on the following:

FAR 50.302 provides for only three types of contract adjustment that may be sought. Two of these, correcting mistakes and formalizing informal commitments, are inapplicable to the instant case. The third type, amendments without consideration, is available only if the conditions in either FAR 50.302–1 (a) or (b) are met.

FAR 50.302-1(a) permits relief in cases where a loss under a contract "will impair the productive ability of a Contractor whose continued performance on any defense contract or whose continued operation as a source of supply is found to be essential to the national defense." Relief would be permitted "only to the extent necessary to avoid such impairment to the Contractor's productive ability." Yeargin had not demonstrated how the alleged loss it has suffered impairs its productive ability. Moreover, there is no showing that Yeargin is essential to the national defense. At the time of the contracts in question, Yeargin was a dealer, not a manufacturer. Since that time, Yeargin has ceased to act as a Government Contractor at all, acting instead as a representative retained by potential contractors to assist them in obtaining contracts. Therefore, it was found that the conditions required by FAR 50.302-1(a) have not been met.

FAR 50.302-1(b), unlike -1(a), pertains only to cases where a loss was caused by Government action. The subparagraph provides in part that "when Government action, while not creating any liability on the Government's part, increases performance cost and results in a loss to the Contractor, fairness may make some adjustment appropriate." Generally, it is the "character" of the Government action that determines whether relief will be granted, and its extent. The time taken by DCASR New York in issuing the Duty-Free Certificates may arguably be construed as such "Government action." However, a review of the record in its entirety reveals that the actions of Yeargin and/or its customhouse broker actually resulted in the increased cost and the loss, if any, to Yeargin.

Whether or not Yeargin's March 27, 1987, letter was in fact sent to or received by Customs, its contents contain an admission by Yeargin that, as of that date (over eight months after entry), Yeargin was still "in the process of securing copies of the Forms 7501 and DD Form 250," and intended to forward these documents to DCASMA New York in one to two more weeks. Yeargin did not forward the Forms 7501 to the ACO at DCASMA New York until June 4, 1987, nearly 11 months after entry. Yeargin has not presented any explanation for its delay in providing the required documentation.

Subsequent to the June 26, 1987, liquidation by Customs, Yeargin had two methods available under Customs regulations to correct the situation: a protest within 90 days of liquidation or an application for reliquidation under 19 USC 1520(c) within one year after the date of liquidation or exaction. Yeargin did not follow either or these avenues of legal relief. In fact, the record shows that, after the liquidation, Yeargin did not attempt to pursue a remedy with either DCASMA or Customs until it wrote to the ACO nearly two years later, on June 22, 1989. After liquidation Yeargin did not even check with Customs to learn if the March 27, 1987, letter had been received, which arguably would have entitled Yeargin to an extension for filing the Certificates under Customs Regulation 159.12(a)(ii).

DCASR New York did issue the Certificates, on December 23, 1987, and again on June 27, 1988, to Alltransport. Alltransport claims to have filed the Certificates with Customs in Baltimore on May 16, 1988; Customs asserts that the Certificates were not filed until June 30, 1989. Whichever version is true, there appears to have been a substantial delay by Alltransport in delivering the Certificates to Customs after they had been issued by DCASR.

It was found that the conditions required by FAR 50.302-1(b), particularly those of causation and "fairness," have not been met. Although it may be true that DCASR delayed in issuing the certificates (from June to December 1987), such Government action did not cause the loss complained of. Yeargin had not provided some necessary documentation to DCASR until 11 months after entry. Yeargin's broker, Alltransport, who had undertaken to deliver the Duty-Free Certificates to Customs, took over four months at a minimum (December 1987 to May 1988) to do so. Thus, even if DCASR had issued the Certificates immediately after receiving the documentation from Yeargin in June 1987, the combined delays of Yeargin and Alltransport would still have resulted in missing the deadline. The Government should not be faulted for a Contractor's or subcontractor's delay that occurred independently of a Government-caused delay. See the analysis in *Brooks Lumber Company*, ASBCA number 40743, 91–2 BCA 23,984. Moreover, after liquidation, Yeargin had remedies at law but did not pursue them. Therefore, Yeargin is not entitled to the equitable relief of Public Law 85–804.

FAR 50.203(C) contains an express limitation on the exercise of authority to grant relief: "No contract shall be amended or modified unless the Contractor submits a request before all obligations (including final payment) under the contract have been discharged." DLA's records indicate that final payment on DLA500–85–C–4800 was made on July 17, 1986; final payment on DLA500–86–C–0210 was made on July 21, 1986; and final payment on DLA500–86–M–B705 was made on July 9, 1986. Yeargin's request for extraordinary contractual relief was dated June 1, 1990. Under Custom's regulations, Yeargin had six months, plus one two-month extension, for providing Customs with the Certificates, within the one year period for liquidation. When Customs liquidated and issued the bill in June 1987, the contracts became final. Yeargin did not protest until two years later after "final payment," giving Yeargin the most favorable construction of its contract, allowing adjustment through Customs under the duty-free entry provisions. This was too late. Therefore, relief was not granted.

The foregoing decision that Yeargin is not entitled to relief under Public Law 85–804 is final and not subject to judicial review. See *Coastal Corporation* v. *United States*, 713 F.2d 728, 731 (Fed.Cir. 1983) and cases sited therein.

Contingent Liabilities: None.

Contractor number: None.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

953. A letter from the Director, Administrative Office of the United States Courts, transmitting a request for supplemental appropriations for fiscal year 1993; to the Committee on Appropriations.

954. A letter from the Chairman, Defense Base Closure and Realignment Commission, transmitting recommendations for base closures and realignments, pursuant to Public Law 101–510, section 2903(c) (104 stat. 1811); to the Committee on Armed Services.

955. A letter from the Chairman, Defense Base Closure and Realignment Commission, transmitting recommendations for base closures and realignments, pursuant to Public Law 101–510, section 2903(c) (104 Stat. 1811); to the Committee on Armed Services.

956. A letter from the Chairman, Defense Base Closure and Realignment Commission, transmitting recommendations for base closures and realignments pursuant to Public Law 101–510, section 2903(c) (104 Stat. 1811); to the Committee on Armed Services.

957. A letter from the Director, Administration and Management, Department of Defense, transmitting the calendar year 1992 report on "Extraordinary Contractual Actions to Facilitate the National Defense", pursuant to 50 U.S.C. 1434; to the Committee on Armed Services.

958. A letter from the Under Secretary of Defense for Acquisition, Department of Defense, transmitting the annual report detailing test and evaluation activities of the Foreign Comparative Testing Program during fiscal year 1992, pursuant to 10 U.S.C. 2350a(g); to the Committee on Armed Services.

959. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–14, "Rental Housing Act of 1985 Frigid Temperature Temporary Amendment Act of 1993", pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

960. A letter from the Secretary of Energy, transmitting the annual report of actions under the Powerplant and Industrial Fuel Use Act of 1978 during calendar year 1992, pursuant to 42 U.S.C. 8482; to the Committee on Energy and Commerce.

961. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the semi-annual reports on voluntary contributions by the United States to international organizations for the period April 1992 to September 1992, pursuant to 22 U.S.C. 2226(b)(1); to the Committee on Foreign Affairs.

962. A letter from the Secretary of Labor, transmitting the quarterly report on the ex-

penditure and need for worker adjustment assistance training funds under the Trade Act of 1974, pursuant to 19 U.S.C. 2296(a)(2); to the Committee on Ways and Means.

963. A letter from the Acting Attorney General, Department of Justice, transmitting the 1992 annual report on the number of applications that were made for orders and extension of orders approving electronic surveillance under the Foreign Intelligence Surveillance Act, pursuant to 50 U.S.C. 1807; jointly, to the Committees on the Judiciary and Intelligence (Permanent Select).

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WALKER:

H.R. 1479. A bill to focus basic energy research where the potential for revolutionary technological advancement is the greatest; to the Committee on Science, Space, and Technology.

By Mr. SANGMEISTER (for himself, Mr. PORTER, Mr. LIPINSKI, Mr. POSHARD, and Mr. SANTORUM):

H.R. 1480. A bill to terminate the salary of any justice or judge of the United States who is convicted of a felony; to the Committee on the Judiciary.

By Mr. DUNCAN:

H.R. 1481. A bill to deauthorize the Kissimmee River restoration project, Florida; to the Committee on Public Works and Transportation.

By Mr. INGLIS:

H.R. 1482. A bill to eliminate the tobacco price support program; to the Committee on Agriculture.

H.R. 1483. A bill to require the President to dispose of materials in the National Defense Stockpile that are obsolete for military purposes or in excess supply in the stockpile and to acquire strategic and critical materials that are in inadequate supply in the stockpile; to the Committee on Armed Services.

H.R. 1484. A bill making appropriations for the House of Representative's official mail cost for the fiscal year ending September 30, 1994 and for other purposes; to the Committee on Appropriations.

H.R. 1485. A bill making appropriations for the House of Representative's committee funding, salaries, and expenditures for the fiscal year ending September 30, 1994, and for other purposes; to the Committee on Appropriations.

H.R. 1486. A bill to amend the Housing Act of 1949 to decrease the number of loans made under section 502 of such act and increase the regulator payments made by borrowers under such loans; to the Committee on Banking, Finance and Urban Affairs.

H.R. 1487. A bill to limit the amounts obligated or expended for fiscal year 1994 for travel expenses for officers and employees of the Federal Government; jointly, to the Committees on Government Operations, House Administration, and the Judiciary.

By Mr. JOHNSON of South Dakota (for himself, Mr. DURBIN, Mr. GRANDY, Mr. GUNDERSON, and Mr. BEREUTER):

H.R. 1488. A bill to prohibit imports into the United States of meat products from the European Community until certain unfair trade barriers are removed, and for other purposes; to the Committee on Ways and Means.

By Mrs. KENNELLY:

H.R. 1489. A bill to amend the Internal Revenue Code of 1986 to repeal the provision which includes unemployment compensation in income subject to tax; to the Committee on Ways and Means.

By Mr. TAUZIN (for himself, Mr. FIELDS of Texas, Mr. LAUGHLIN, Mr. YOUNG of Alaska, Mr. ORTIZ, Mr. DOOLEY, Mr. STENHOLM, Mr. PARKER, Mr. ROWLAND, Mr. BREWSTER, Mr. MONTGOMERY, Mr. HALL of Texas, Mr. EDWARDS of Texas, Mr. PAXON, Mrs. VUCANOVICH, Mr. SAM JOHNSON, Mr. SARPALIUS, Mr. LEWIS of California, Mr. HAYES of Louisiana, Mr. SMITH of Texas, Mr. BONILLA, Mr. CUNNINGHAM, Mr. HANSEN, Mr. COLLINS of Georgia, and Mr. BROOKS):

H.R. 1490. A bill to reauthorize and amend the Endangered Species Act of 1973 to improve and protect the integrity of its programs for the conservation of threatened and endangered species, to ensure balanced consideration of all impacts of decisions implementing the act, to provide for equitable treatment of non-Federal persons and Federal agencies under the act, to encourage non-Federal persons to contribute voluntarily to species conservation, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mrs. KENNELLY:

H.R. 1491. A bill to extend nondiscriminatory treatment to the products of Romania for 3 years; to the Committee on Ways and Means.

By Mrs. LLOYD:

H.R. 1492. A bill to amend the Public Health Service Act to establish a program for postreproductive health care; to the Committee on Energy and Commerce.

By Mrs. MEYERS of Kansas:

H.R. 1493. A bill to reform the concessions policies of the National Park Service, and for other purposes; to the Committee on Natural Resources.

By Mr. MILLER of California:

H.R. 1494. A bill to establish a national policy prohibiting the location of new public schools and child care centers on real property where the electromagnetic field exceeds an average 2 milligauss per day, and for other purposes; to the Committee on Education and Labor.

By Mr. SCHUMER:

H.R. 1495. A bill to amend title 18, United States Code, to prohibit certain practices by unregulated loan brokers; to the Committee on the Judiciary.

By Mr. SMITH of Texas (for himself, Mr. MCCOLLUM, Mr. GALLEGLY, Mr. GILMAN, Mr. COMBEST, Mr. CANADY, and Mr. COBLE):

H.R. 1496. A bill to amend the Immigration and Nationality Act to authorize the registration of aliens on criminal probation or criminal parole; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 1497. A bill to amend title 18, United States Code, to preserve personal privacy with respect to information contained in prescription drug records; to the Committee on the Judiciary.

H.R. 1498. A bill to amend the Social Security Act to provide for findings of presumptive disability under title II of such act in the same manner and to the same extent as is currently applicable under title XVI of such act; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. VISCLOSKY:

H.R. 1499. A bill to modify the flood control project for the Little Calumet River, Indiana, to direct the Secretary of the Army to provide a local preference in awarding contracts to carry out the project, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. HINCHEY (for himself, Mr. HOAGLAND, Mr. MURTHA, Mr. VALENTINE, Mr. BROWN of California, Mr. MCHALE, Mr. STARK, Mr. EVANS, Mr. TOWNS, Mr. MACHTLEY, Ms. SLAUGHTER, Mr. NEAL of Massachusetts, Mr. MCDERMOTT, Mr. GILCHREST, Mr. SMITH of New Jersey, and Mr. WAXMAN):

H.R. 1500. A bill to designate certain Federal lands in the State of Utah as wilderness, and for other purposes; to the Committee on Natural Resources.

By Mr. YATES:

H.R. 1501. A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, in any manner affecting interstate or foreign commerce, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, and pistol clubs; to the Committee on the Judiciary.

By Mrs. CLAYTON:

H. Con. Res. 72. Concurrent resolution expressing the sense of Congress that stimulus package funds appropriated to accelerate the economy should be equitably targeted to economically distressed areas that have not benefited from the current economic recovery; to the Committee on Government Operations.

By Miss COLLINS of Michigan (for herself, Mr. SCHUMER, Mr. CLAY, Mr. MURPHY, Mr. FORD of Tennessee, Mrs. MEEK, Mr. SCOTT, Mr. TOWNS, and Mr. ROMERO-BARCELO):

H. Con. Res. 73. Concurrent resolution expressing the sense of the Congress that Job Corps is a long-term program that invests in America's future and should serve as the cornerstone of youth policy in America; to the Committee on Education and Labor.

By Mrs. JOHNSON of Connecticut (for herself, Ms. SNOWE, Mr. RAMSTAD, Mr. KINGSTON, Mr. BLILEY, Mr. COBLE, Mr. LIGHTFOOT, Mr. CANADY, Mr. ZIMMER, Mr. SCHIFF, Mr. COX, Mr. PAXON, Mr. SENSENBRENNER, Mr. ARCHER, Mr. MCCRERY, Mr. BAKER of Louisiana, Mrs. BENTLEY, Mr. SHAW, Mr. YOUNG of Alaska, Mr. HUTCHINSON, Mr. POMBO, Mr. MANZULLO, Mr. GRANDY, Mr. HERGER, Mr. COLLINS of Georgia, Mr. ROHRABACHER, Mr. GOODLATTE, Mr. GILMAN, Mrs. MEYERS of Kansas, Mr. FAWELL, Mr. HOBSON, Mr. WALKER, Mr. EWING, Mr. HASTERT, Mr. UPTON, Mr. BOEHLERT, Mr. BARTLETT, Mr. HOEKSTRA, Mr. KNOLLENBERG, Mr. SANTORUM, Mr. KASICH, Mr. GINGRICH, Mr. STUMP, Ms. FOWLER, Mr. LEWIS of California, Mr. HEFLEY, Mr. ALLARD, Mr. SCHAEFER, and Mr. MOORHEAD):

H. Con. Res. 74. Concurrent resolution expressing the sense of the Congress that the energy tax proposed by the President will harm the economy and should not be approved; to the Committee on Ways and Means.

By Mr. JOHNSTON of Florida (for himself, Mr. PAYNE of New Jersey, Mr. GEJDENSON, Mr. EDWARDS of California, and Ms. MCKINNEY):

H. Con. Res. 75. Concurrent resolution to support the peace process in Angola; to the Committee on Foreign Affairs.

By Mr. DUNCAN:

H. Res. 140. Resolution to amend the Rules of the House of Representatives to require

printing in the CONGRESSIONAL RECORD of certain travel by Members; to the Committee on Rules.

H. Res. 141. Resolution to amend the Rules of the House of Representatives to prohibit the use of appropriated funds for travel outside of the United States by Members of the House who are not seeking reelection and their spouses and personal staff; to the Committee on Rules.

MEMORIAL

Under clause 4 of rule XXII.

66. The SPEAKER presented a memorial of the General Assembly of the State of New Jersey, relative to the blockade of Armenia by Turkey and the Nagorno Karabagh conflict; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. HOYER, Mr. MATSUI, Mr. KENNEDY, Mr. YATES, Mr. BILBRAY, and Mr. SYNAR.

H.R. 11: Mr. DEFAZIO, Mr. MURPHY, Mr. ROMERO-BARCELO, Mrs. BYRNE, Mr. EVANS, Mr. STOKES, Mr. RICHARDSON, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. BOUCHER, Mr. STARK, Mr. DARDEN, Mr. HASTINGS, Ms. WOOLSEY, Mr. TRAFICANT, Mr. KOPETSKI, Mr. LEHMAN, Mr. EDWARDS of California, Mr. SANDERS, Mr. ROSE, Mr. SCOTT, Mrs. SCHROEDER, Mr. CLYBURN, Mr. TORRICELLI, Mr. CARR, Mr. GEJDENSON, Mr. BROWN of California, and Ms. DELAURO.

H.R. 60: Mr. HAYES of Louisiana.

H.R. 147: Mr. ROYCE.

H.R. 163: Mr. CRAPO, Mr. ROYCE, and Mr. BOEHNER.

H.R. 226: Mr. SANDERS, Mr. WILLIAMS, Mr. COSTELLO, and Mr. SHAYS.

H.R. 247: Mr. STUMP.

H.R. 264: Mrs. VUCANOVICH.

H.R. 280: Mr. DEFAZIO, Mr. MURPHY, Mr. VALENTINE, Mr. SCHUMER, Mr. ROMERO-BARCELO, Mr. STOKES, Mr. RICHARDSON, Mr. TRAFICANT, Mr. MOLLOHAN, Mr. PORTER, Mr. SABO, and Ms. DELAURO.

H.R. 281: Mr. EVANS, Mr. VENTO, Mr. OBEY, Mr. DIXON, and Mr. WHEAT.

H.R. 282: Mr. FROST.

H.R. 348: Mr. KNOLLENBERG, Mr. DELAY, and Mr. KINGSTON.

H.R. 349: Mr. HOEKSTRA, Mr. KNOLLENBERG, Mr. MILLER of Florida, Ms. BYRNE, Mr. CONDIT, Mr. GUTIERREZ, Mr. PARKER, Mr. PAYNE of Virginia, and Ms. SCHENK.

H.R. 381: Mr. ARMEY.

H.R. 383: Mr. ARMEY.

H.R. 389: Mr. ARMEY.

H.R. 390: Mr. ARMEY.

H.R. 462: Mr. BARLOW, Mr. MANTON, Mr. COYNE, Mr. FISH, Mr. CAMP, Mr. SERRANO, Mr. PICKETT, Mr. SANTORUM, Mr. FLAKE, Mr. RAVENEL, Mr. LINDER, Mr. NATCHER, and Mr. CALLAHAN.

H.R. 464: Mr. BAKER of California.

H.R. 509: Mr. WALSH.

H.R. 521: Mrs. LLOYD, Mr. VALENTINE, Mr. ROMERO-BARCELO, Mr. NEAL of North Carolina, Mr. BAESLER, Mr. DEFAZIO, Mr. HOLDEN, Ms. FURSE, Mr. PARKER, Mr. MONTGOMERY, Mr. KOPETSKI, Mr. CLYBURN, Mr. HAYES of Louisiana, Mr. MCDERMOTT, and Mr. WHITTEN.

H.R. 549: Mr. COBLE, Mr. LAZIO, and Mr. COLLINS of Georgia.

H.R. 550: Mr. SANTORUM.

H.R. 634: Mr. WILLIAMS.

H.R. 635: Ms. THURMAN.

H.R. 643: Mr. RAMSTAD and Mr. ZIMMER.

H.R. 684: Mr. SCHUMER and Mr. CLYBURN.

H.R. 741: Mr. INHOFE, Mr. LIVINGSTON, Mr. GOSS, Ms. DUNN, Mr. MCCRERY, and Mr. MILLER of Florida.

H.R. 799: Mr. APPLEGATE.

H.R. 824: Mr. GOSS.

H.R. 842: Mr. BLACKWELL.

H.R. 857: Mr. ZIMMER and Mr. BAKER of California.

H.R. 898: Mr. ABERCROMBIE, Mr. ALLARD, Mr. ANDREWS of Texas, Mr. ANDREWS of New Jersey, Mr. APPLEGATE, Mr. BACCHUS of Florida, Mr. BARCIA, Mr. BARTON of Texas, Mr. BATEMAN, Mr. BEVILL, Mr. BILBRAY, Mr. BORSKI, Mr. BREWSTER, Mr. BROWDER, Mr. BROWN of California, Mr. BROWN of Ohio, Mr. BUNNING, Mr. BURTON of Indiana, Mr. COLLINS of Georgia, Mr. COYNE, Mr. CUNNINGHAM, Mr. DORNAN, Mr. EMERSON, Mr. FIELDS of Texas, Mr. GEPHARDT, Mr. GORDON, Mr. HALL of Ohio, Mr. HALL of Texas, Ms. HARMAN, Mr. HERGER, Mr. HOCHBRUECKNER, Mr. HOLDEN, Mr. INHOFE, Mr. JOHNSON of Georgia, Mr. KANJORSKI, Mr. KLEIN, Mr. LAUGHLIN, Mr. LIVINGSTON, Mrs. LLOYD, Mr. MCCURDY, Mr. MICHEL, Mr. MONTGOMERY, Mr. OBERSTAR, Mr. ORTON, Mr. PICKETT, Mr. PRICE of North Carolina, Mr. ROWLAND, Mr. SISISKY, Mr. SKELTON, Mr. SMITH of New Jersey, Mr. SPENCE, Mr. STENHOLM, Mr. STUMP, Mr. SYNAR, Mr. TANNER, Mr. TAUZIN, Mr. TAYLOR of Mississippi, Mr. THORNTON, Mr. VALENTINE, Mr. VOLKMER, Mrs. VUCANOVICH, and Mr. WOLF.

H.R. 903: Mr. LIPINSKI, Mr. KLINK, Mr. FROST, Mr. FORD of Michigan, and Mr. HUGHES.

H.R. 915: Mr. LANCASTER and Mr. FROST.

H.R. 924: Mrs. MEYERS of Kansas, Mr. TOWNS, and Mr. SMITH of New Jersey.

H.R. 955: Mr. MINETA.

H.R. 963: Mr. NEAL of North Carolina.

H.R. 967: Mr. PACKARD, Mr. EWING, Mr. PASTOR, Mr. SPRATT, Mr. POMEROY, Mr. BARCIA, Ms. SLAUGHTER, Mr. NUSSLE, Mr. BACCHUS of Florida, Mr. BONILLA, Mr. HOEKSTRA, and Mr. BLILEY.

H.R. 981: Mrs. MORELLA.

H.R. 987: Mr. YATES, Mr. LAFALCE, Mr. DURBIN, Mr. MARTINEZ, Mr. LEHMAN, Mr. BLACKWELL, Mr. SCHUMER, Ms. BYRNE, and Mr. PASTOR.

H.R. 998: Mr. HUFFINGTON.

H.R. 1013: Ms. ENGLISH of Arizona, Ms. MALONEY, Mr. COSTELLO, Mr. MEEHAN, and Mrs. VUCANOVICH.

H.R. 1019: Mr. FORD of Tennessee, Mrs. MEEK, Mr. BLACKWELL, Mr. CLAY, Mr. FROST, Mr. GUTIERREZ, Mr. SCOTT, Mr. PASTOR, and Ms. NORTON.

H.R. 1020: Mr. MARTINEZ, Ms. ROYBAL-ALLARD, Mr. TORRES, Mr. EDWARDS of California, Ms. WOOLSEY, Mr. MATSUI, Ms. ESHOO, Ms. PELOSI, Ms. VELAZQUEZ, Mr. TUCKER, Mr. BECERRA, Mr. CLYBURN, Mr. FORD of Tennessee, Mrs. MEEK, Mr. BLACKWELL, Mr. CLAY, Mr. FROST, Mr. GUTIERREZ, Mr. SCOTT, Mr. PASTOR, and Ms. NORTON.

H.R. 1021: Mr. MARTINEZ, Ms. ROYBAL-ALLARD, Mr. TORRES, Mr. EDWARDS of California, Ms. WOOLSEY, Mr. MATSUI, Ms. ESHOO, Ms. PELOSI, Ms. VELAZQUEZ, Mr. TUCKER, Mr. BECERRA, Mr. CLYBURN, Mr. FORD of Tennessee, Mrs. MEEK, Mr. BLACKWELL, Mr. CLAY, Mr. FROST, Mr. GUTIERREZ, Mr. SCOTT, Mr. PASTOR, and Ms. NORTON.

H.R. 1022: Mr. MARTINEZ, Ms. ROYBAL-ALLARD, Mr. TORRES, Mr. EDWARDS of California, Ms. WOOLSEY, Mr. MATSUI, Ms. ESHOO, Ms. PELOSI, Ms. VELAZQUEZ, Mr. TUCKER, Mr. BECERRA, Mr. CLYBURN, Mr. FORD of Tennessee, Mrs. MEEK, Mr. BLACKWELL, Mr. CLAY, Mr. FROST, Mr. GUTIERREZ, Mr. SCOTT, Mr. PASTOR, and Ms. NORTON.

H.R. 1036: Mr. MANTON, Mr. KENNEDY, and Mr. TUCKER.

H.R. 1079: Mr. GINGRICH.

H.R. 1080: Mr. GINGRICH.

H.R. 1081: Mr. GINGRICH.

H.R. 1111: Mr. BAESLER, Ms. PELOSI, Mr. TOWNS, Mr. SAWYER, Ms. SLAUGHTER, Mr. RUSH, and Mr. JEFFERSON.

H.R. 1141: Mrs. VUCANOVICH, Mr. PICKETT, Mr. HUTTO, Mr. MACHTLEY, Mr. DORNAN, Mr. LIGHTFOOT, Mr. TORKILDSEN, and Mr. GINGRICH.

H.R. 1144: Mr. BILBRAY.

H.R. 1146: Mr. ABERCROMBIE, Mr. ANDREWS of New Jersey, Mr. BERMAN, Mr. FAZIO, Mr. INSLEE, Mr. JEFFERSON, Mr. KENNEDY, Mr. MILLER of California, Mr. MINETA, Mr. OLVER, Mr. REED, Mr. ROEMER, Mr. SANDERS, Mrs. SCHROEDER, Mr. SYNAR, and Mr. WHEAT.

H.R. 1161: Mr. JEFFERSON, Mr. JOHNSTON of Florida, and Mr. SANTORUM.

H.R. 1171: Mr. FROST.

H.R. 1172: Mr. THORNTON, Mr. OLVER, Ms. CANTWELL, Mr. FORD of Tennessee, Mr. HOCHBRUECKNER, and Mr. CLYBURN.

H.R. 1173: Mr. NEAL of Massachusetts and Ms. ROYBAL-ALLARD.

H.R. 1191: Mr. ARMEY.

H.R. 1207: Mr. VISCLOSKY.

H.R. 1222: Mr. GINGRICH, Mr. PAXON, Mr. ZELIFF, Mr. OWENS, Mr. SOLOMON, and Mr. OXLEY.

H.R. 1244: Mr. LANCASTER, Mr. POSHARD, Mr. MAZZOLI, and Ms. DANNER.

H.R. 1292: Mr. ROMERO-BARCELO, Mr. BERMAN, and Mr. PASTOR.

H.R. 1406: Mr. RAVENEL.

H.R. 1460: Mr. KOPETSKI.

H.J. Res. 28: Mr. BAESLER, Mr. HAMILTON, Mr. BYRNE, Mr. KIM, Mr. GLICKMAN, Mr. EVANS, and Mr. ANDREWS of Maine.

H.J. Res. 45: Mr. THOMAS of Wyoming.

H.J. Res. 84: Ms. BROWN of Florida and Ms. MOLINARI.

H.J. Res. 128: Mr. KILDEE, Mr. BUNNING, and Mr. DOOLITTLE.

H.J. Res. 129: Mr. ARMEY.

H.J. Res. 143: Mr. LANTOS, Mr. MACHTLEY, Mr. SCHIFF, Mrs. VUCANOVICH, Mr. LANCASTER, Mr. HINCHEY, Mr. DELLUMS, Mr. CARR, Ms. SCHENK, Mr. MARKEY, Ms. DUNN, Mr. TAYLOR of Mississippi, Mrs. LOWEY, Mr. SYNAR, Mr. REED, Mr. WYNN, Mr. MORAN, Mr. STUPAK, Mr. GENE GREEN, Mr. BROWN of California, Mr. LAROCCO, Ms. LAMBERT, Mr. SHAYS, Mr. SCOTT, Mr. HAMILTON, Mr. OWENS, Mr. LEWIS of Georgia, Mr. HOYER, Mr. MATSUI, Mr. PRICE of North Carolina, Mr. MOORHEAD, Mr. ROMERO-BARCELO, Mr. SWETT, and Mr. EVANS.

H.J. Res. 145: Mr. STUMP, Mr. BALLENGER, Mr. KING, Mr. CRANE, Mr. LEWIS of Florida, Mr. LIVINGSTON, Mr. ARMEY, Mr. WALSH, Mr. KLUG, Mr. MACHTLEY, Ms. DUNN, Mr. YOUNG of Florida, Mr. ROHRABACHER, Mr. COLLINS of Georgia, Mr. GINGRICH, Mr. SMITH of New Jersey, Mr. PETRI, and Mr. COX.

H.J. Res. 149: Mr. BROWN of Ohio, Mr. HUGHES, Mr. ROMERO-BARCELO, Mr. FROST, Mr. SOLOMON, and Mr. COLLINS of Georgia.

H. Con. Res. 15: Mr. WILLIAMS.

H. Con. Res. 26: Ms. MARGOLIES-MEZVINSKY, Mr. MCHALE, Mr. FILNER, Mr. TORRICELLI, Mr. MCNULTY, Mr. SANDERS, Mr. EVANS, and Mr. MOORHEAD.

H. Con. Res. 37: Mr. HUGHES, Mr. FISH, Mr. REYNOLDS, Mr. HINCHEY, Mr. ABERCROMBIE, Mr. ANDREWS of Maine, Mr. FAZIO, Mr. FRANK of Massachusetts, Mr. GLICKMAN, Mr. JEFFERSON, Mr. KENNEDY, Mr. MILLER of California, Mr. MINETA, Mr. OLVER, Mr.

SANDERS, Mrs. SCHROEDER, Mr. SYNAR, Mr. VISCLOSKY, Mr. WHEAT, Mr. WYDEN, Mr. SLATTERY, Mr. BLACKWELL, Ms. FURSE, Mr. CONYERS, Mr. PASTOR, Mr. DEUTSCH, and Mr. NEAL of North Carolina.

H. Con. Res. 38: Mr. ARMEY, Mr. GALLEGLY, and Mr. ROYCE.

H. Con. Res. 51: Mr. MOORHEAD and Mr. ZELIFF.

H. Res. 38: Mr. RICHARDSON and Mr. BLACKWELL.

H. Res. 40: Mr. GUTIERREZ, Mrs. COLLINS of Illinois, Mr. HOCHBRUECKNER, and Mr. FORD of Tennessee.

H. Res. 50: Mr. HASTERT, Mr. HANCOCK, Mr. EWING, Mr. TALENT, and Mr. CRAPO.

H. Res. 118: Mr. DIAZ-BALART.

H. Res. 123: Mr. ROBERTS, Mr. FAWELL, Mr. EWING, Mrs. JOHNSON of Connecticut, Mr. STUMP, Mr. BALLENGER, Mr. KING, Mr. CRANE, Mr. LEWIS of Florida, Mr. LIVINGSTON, Mr. ARMEY, Mr. WALSH, Mr. KLUG, Mr. MACHTLEY, Ms. DUNN, Mr. YOUNG of Florida, Mrs. MEYERS of Kansas, Mr. COLLINS of Georgia, Mr. GINGRICH, Mr. SMITH of New Jersey, and Mr. COX.

H. Res. 124: Mr. GOSS, Mr. ARMEY, Mr. PETRI, Mr. BARTON of Texas, Mr. PASTOR, Mr. MOORHEAD, Mr. SENSENBRENNER, Mr. STUMP, Mr. BALLENGER, Mr. KING, Mr. CRANE, Mr. LEWIS of Florida, Mr. LIVINGSTON, Mr. WALSH, Mr. KLUG, Mr. MACHTLEY, Ms. DUNN, Mr. YOUNG of Florida, Mr. EMERSON, Mr. COLLINS of Georgia, Mr. GINGRICH, and Mr. COX.

H. Res. 139: Mrs. MORELLA, Mrs. BENTLEY, Mr. STUMP, Mr. LEWIS of California, Mr. HORN, Mr. GOODLING, Mr. ROTH, Mr. UPTON, Mr. GOSS, Mr. HOBSON, Mr. WALKER, Mr. WALSH, Ms. SNOWE, Mr. BEREUTER, Mr. QUINN, Mr. CASTLE, Mr. POMBO, Mr. HOEKSTRA, and Mr. ARMEY.

PETITIONS, ETC.

Under clause 1 of rule XXII,

23. The SPEAKER presented a petition of the Board of Education, Attalla, AL, relative to reinvest in America; to the Committee on Education and Labor.